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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF :
RALPH AND MARGARET GIBSON : Case No. S-2816
AND T-MOBILE NORTHEAST, LLC : OZAH No. 11-38
:
-----X

A hearing in the above-entitled matter was held on
January 20, 2012, commencing at 9:33 a.m., at the Council
Office Building, 100 Maryland Avenue, Room 200, Rockville,
Maryland 20850 before:

Martin Grossman, Hearing Examiner

A P P E A R A N C E S

ON BEHALF OF THE APPLICANT:

Ed Donohue, Esq.
Donohue & Stearns, PLC
801 North Fairfax Street, Suite 209
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WITNESSES:

Matt Chaney For Applicant Network Building & Consulting, LLC 7380 Coca Cola Drive, Suite 106 Hanover, Maryland 21076	61-183
Jim Reid For Opposition Expert in Home Values 11028 Harding Road 11028 Harding Road Laurel, Maryland 20723	185-224
Curtis Jews For Applicant Expert in RF Propagation and Network Design T-Mobile Northeast, LLC 6864 Reisterstown Road Baltimore, Maryland 21215	225-272
Matt Butcher For Applicant Expert in RF Engineering/FCC Exposure Regulations Sitesafe, RF Compliance Experts 200 North Glebe Road, Suite 1000 Arlington, VA 22203	274-290
Oakleigh Thorne For Applicant Expert in Real Property Price Evaluation Thorne Consultants, Inc. 10605 Concord Street, Suite 420 Kensington, Maryland 20895	291-359

A P P E A R A N C E S (Continued)

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Stewart Saphier - Neighbor in Opposition 19/44/163/182 2901 Friendlywood Way Burtonsville, Maryland 20866	193/229/265 344/359
Ralph Gibson - Applicant 2815 Cabin Creek Drive Burtonsville, Maryland 20866	47/360
Jeff Coles - Neighbor in Opposition 2817 Cabin Creek Drive Burtonsville, Maryland 20866	28/139/211 255/271/350
McKinley Hudson - Neighbor in Opposition 13 Cabin Creek Court Burtonsville, Maryland 20866	143/259/326
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John Potts - Neighbor in Opposition 24/144/269/325 14737 Locustwood Lane Silver Spring, Maryland 20905	

Bernie Flores - Neighbor in Opposition
 5 Cabin Creek Court
 Burtonsville, Maryland 20866

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Yvonne Hudson - Neighbor in Opposition
 13 Cabin Creek Court
 Burtonsville, Maryland 20866

Marla Moore - Neighbor in Opposition
 2408 Kaywood Lane
 Silver Spring, Maryland 20905

Margaret Gibson - Applicant
 2815 Cabin Creek Drive
 Burtonsville, Maryland 20866

Tuan Huynh - Neighbor in Opposition
 14908 Perrywood Drive
 Burtonsville, Maryland 20866

E X H I B I T S

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Exhibit No. 62	Site Compliance Report	58	--	
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P R O C E E D I N G S

MR. GROSSMAN: This is a public hearing in the matter of T-Mobile Northeast, LLC and Ralph and Margaret Gibson, Board of Appeals No. S-2816, OZAH No. 11-38. Petition for special exception under Code Section 59-G-2.58. Petitioners seek a special exception to construct an unmanned wireless telecommunications facility mounted within a 115-foot tall monopole and an associated equipment area. The subject property is Parcel P-161 located at 2815 Cabin Creek Drive, Burtonsville, Maryland 20866 in the RE-1 Zone. The site is on land owned by the co-applicants, Ralph and Margaret Gibson. The RE-1 Zone permits telecommunication facilities by special exception.

All right. This hearing is conducted on behalf of the Board of Appeals. My name is Martin Grossman. I'm the hearing examiner which means I will take evidence and write a report and recommendation to the Board of Appeals which will make the decision in this case. Will the parties identify themselves, please, for the record?

MR. DONOHUE: Mr. Grossman, good morning. My name is Ed Donahue on behalf of the applicant, T-Mobile.

MR. GROSSMAN: All right. And I see that we have a number of people in the audience here and so let me ask for people who wish to be heard today, first in support of this application, who are not witnesses to be called by Mr.

1 Donohue. I see no hands so let me ask people who wish to be
2 heard today in opposition to the application. All right. I
3 see a lot of hands so let me start out with the front row.
4 Sir?

5 MR. ALBERT: Alan Albert.

6 MR. GROSSMAN: All right. And your --

7 MR. ALBERT: Would you like address?

8 MR. GROSSMAN: Yes, please. Give me your address.

9 MR. ALBERT: I live at 2825 Cabin Creek Drive,
10 Burtonsville, Maryland 20866. I am three houses from the
11 Gibson property.

12 MR. GROSSMAN: Okay. Next?

13 MR. COLES: I'm Jeff Coles. I live at 2817 Cabin
14 Creek Drive.

15 MR. GROSSMAN: All right, Mr. Coles.

16 MS. STINE: I'm Lisa Stine. I'm at 5 Cabin Creek
17 Court. My husband, Bernardino Flores, expects to join us.

18 MR. GROSSMAN: Does he wish to be heard also?

19 MS. STINE: He may, yes.

20 MR. GROSSMAN: All right.

21 MR. SAPHIER: Stewart is the first name, S-T-E-W-
22 A-R-T, Saphier, S-A-P-H-I-E-R, 2901 Friendlywood Way.

23 MR. GROSSMAN: All right, Dr. Saphier.

24 MR. SAPHIER: And we have other people that we
25 expect to come later to also testify. Do you want their

1 names now or when they come?

2 MR. GROSSMAN: Well, if they wish to be heard,
3 they can announce when they come in. You can let them know
4 when they come in that they should let me know so we don=t
5 miss them, but we=ll give them ample opportunity to be
6 heard.

7 MR. SAPHIER: One of them might, will probably be
8 coming around 2:00, I expect we=ll still be here at that
9 time, and has a 4:00 appointment that he has to go to so he
10 may have to be in and out if that=s possible.

11 MR. GROSSMAN: Well, we=ll try to squeeze him in
12 if we=re still here. Okay. All right?

13 MR. AULD: Bill Auld. A-U-L-D is the last name.
14 2913 Cabin Creek Drive.

15 MR. GROSSMAN: All right.

16 MR. LEEGER: David Leeger, 14721 Locustwood Lane.

17 MR. GROSSMAN: How do you spell your last name,
18 sir?

19 MR. LEEGER: L-E-E-G-E-R.

20 MR. GROSSMAN: All right. Sir?

21 MR. KARZAI: Hameed Karzai. H-A-M-E-E-D K-A-R-Z-
22 A-I. 2911 Cabin Creek Drive.

23 MR. GROSSMAN: You spell your name the same way as
24 President Karzai.

25 MR. KARZAI: K-A-R-Z-A-I.

1 MR. GROSSMAN: Okay. All right. Back row. All
2 right, ma'am.

3 MS. MOORE: Marla Moore.

4 MR. GROSSMAN: I'm sorry? What was that?

5 MS. MOORE: Marla Moore, 2408 Kaywood Lane.

6 MR. GROSSMAN: All right. Sir?

7 MR. POTTS: John Potts, P-O-T-T-S, 14737
8 Locustwood Lane.

9 MR. GROSSMAN: All right. Sir? Oh, yes. Next?

10 MR. HUDSON: McKinley Hudson, 13 Cabin Creek
11 Court.

12 MR. GROSSMAN: Next witness who wishes to testify?

13 UNIDENTIFIED SPEAKER: No.

14 MR. GROSSMAN: No. Sir?

15 MR. HUYNH: Tuan Huynh, 14908 Perrywood Drive.

16 MR. GROSSMAN: And I'm sorry, sir. I didn't get
17 your whole name.

18 MR. HUYNH: Tuan.

19 MR. GROSSMAN: How do you spell that?

20 MR. HUYNH: T-U-A-N.

21 MR. GROSSMAN: T-U-A-N.

22 MR. HUYNH: Last name is Huynh, H-U-Y-N-H.

23 MR. GROSSMAN: H-U-Y-N-H. Thank you. Ma'am?

24 Sir? Nobody else? Okay. All right. Is there anybody else
25 here who wishes to testify, just to comment neither for nor

1 against? Seeing no hands, all right.

2 MR. GIBSON: I=d like to comment but --

3 MR. GROSSMAN: All right, sir.

4 MR. GIBSON: But later, not now.

5 MR. GROSSMAN: Well, when you say later, we=re
6 going to give everybody an opportunity to testify but and
7 there may -- I don=t know what you mean by later.

8 MR. GIBSON: I=m the owner, owner of the property.

9 MR. GROSSMAN: Oh, okay.

10 MR. GIBSON: Yeah.

11 MR. GROSSMAN: Well, will you be called by Mr.
12 Donohue?

13 MR. DONOHUE: Mr. and Mrs. Gibson are here, Mr.
14 Chairman. They may wish to speak. You ought to take their
15 name and address I think. Mr. Gibson, all right?

16 MR. GIBSON: Hum?

17 MR. DONOHUE: Just give him your name and address
18 so you=re on the record.

19 MR. GIBSON: 2815 Cabin Creek.

20 MR. GROSSMAN: And I take it, Mr. Gibson, you=re
21 here to --

22 MR. GIBSON: Ralph Gibson, yes.

23 MR. GROSSMAN: Here to testify in support of the
24 application I take it?

25 MR. GIBSON: That=s right. Yes.

1 MR. GROSSMAN: Okay.

2 MR. GIBSON: And my wife=s here. She is also.

3 MR. GROSSMAN: All right, sir. Okay. Let me
4 explain a little bit about the nature of these proceedings
5 and what we=re here about. These proceedings are a
6 combination of formality and informality. They are very
7 formal in the sense that all witnesses are sworn in, they=re
8 subject to cross-examination. We proceed more or less the
9 way a courtroom proceeds. There is a court reporter who
10 takes everything down and there will be a transcript of the
11 proceedings. We follow rules of evidence pretty much, a
12 little bit more relaxed than regular rules of evidence in
13 certain areas, but it operates more or less the way you see
14 a courtroom operate. We=re a little less formal to
15 accommodate the situation here.

16 Everybody will be given an opportunity to testify
17 and if you have questions, cross-examination questions that
18 were not asked, we=ll give you an opportunity to have those
19 questions asked. Is there one among you who wishes to --
20 since we can=t have everybody sitting at counsel table, if
21 there=s one among you who wishes to sit at counsel table and
22 be the most direct questioner on cross-examination, anybody
23 want to raise their hand to do that, to be the person
24 sitting at counsel table? All right. I don=t see any
25 hands. It just makes it a little easier for cross-

1 examination questions if somebody wants to participate.

2 MR. LEEGER: I'll volunteer.

3 MR. GROSSMAN: All right, sir. And what was your
4 name again?

5 MR. LEEGER: David Leeger.

6 MR. GROSSMAN: Mr. Leeger.

7 MR. LEEGER: Yes.

8 MR. GROSSMAN: All right.

9 MS. STINE: Excuse me, Mr. Grossman.

10 MR. GROSSMAN: Yes, ma'am.

11 MS. STINE: Is it permitted to ask questions even
12 though we're not sitting, we're not the volunteer?

13 MR. GROSSMAN: Yes. What I'll do at the, after
14 cross-examination by Mr. Leeger, if you have additional
15 questions that you wish to ask, you can either ask them
16 directly, I'll have you come forward, or you can tell Mr.
17 Leeger and then he can ask your questions.

18 MS. STINE: Okay.

19 MR. GROSSMAN: But we'll give everybody an
20 opportunity to make sure that they've asked the questions
21 they want to ask as long as it doesn't become repetitive and
22 cumulative to what we already have.

23 MS. STINE: Thank you.

24 MR. GROSSMAN: All right. Sure. All right. Let
25 me explain a little bit about what a special exception is

1 and what we're here about today because I'm sure there's
2 some misunderstanding of that, and I recognize any number of
3 the names here from people who have written in, some of you
4 a number of times, having reviewed the file.

5 A special exception is not a variance. It is a
6 statutorily permitted use if certain conditions are met.
7 Those conditions are spelled out in the Zoning Ordinance.
8 There are general conditions that apply to almost all
9 special exceptions and they apply here, and then there are
10 specific conditions that apply to this type of special
11 exception and it is the burden of the applicants to prove by
12 a preponderance of the evidence that they have satisfied
13 those conditions spelled out in the Zoning Ordinance.

14 But you have to recall that it's not the role of
15 the Hearing Examiner to determine whether cell towers in
16 general are a bad thing in a residential zone. Cell towers
17 are permitted in this zone by the Zoning Ordinance and so
18 the question here is not whether or not there can be cell
19 towers. The question here is whether or not there are any,
20 there are things about this proposed cell tower, adverse
21 effects that it will cause that are not inherent in cell
22 towers in general, and that's a statutory provision also.
23 Zoning Ordinance Section 59-G-1.2.1 expressly prohibits the
24 denial of a special exception petition based on just
25 inherent adverse effects, and I'm going to quote it for you:

1 "Inherent adverse effects alone are not sufficient
2 basis for denial of a special exception."

3 So we have to operate in certain parameters here
4 as to what is allowed by statute and what is not. Even if
5 there are some non-inherent characteristics of this proposed
6 cell tower, I=m still required to look at those, at the
7 evidence regarding these non-inherent characteristics and
8 determine whether they are sufficient to deny or recommend
9 denial of the special exception or not, or whether or not
10 they justify conditions being imposed regarding the special
11 exception.

12 Also, zoning matters are not plebiscites.
13 Specifically, I=m not permitted to just count noses and see
14 how many people in the neighborhood oppose a particular
15 application and how many support it and then go with the
16 ones that oppose or support, whatever the majority is,
17 that=s not the way zoning works. The case law is very clear
18 about that. I=m required to look at the statutory
19 conditions, evaluate the evidence and see whether, by a
20 preponderance of the evidence, the statutory conditions have
21 been met.

22 All right. Of course, by the way, I should add
23 I=m very happy to have community participation because it
24 may be that the applicant has not, does not meet the
25 requirements or it may be that there are appropriate

1 conditions, and we always value community participation in
2 this.

3 One other thing I think I should mention, having
4 read the letters that have been filed here, federal law
5 preempts the area of the question of whether or not there
6 are health impacts from radiation from a cell tower. I'm
7 specifically prohibited by federal law, and it's Section
8 704(b) of the Telecommunications Act, of rejecting a cell
9 tower based on health concerns and that sort of thing, and
10 I'll read you that provision as well:

11 "No state or local government or instrumentality
12 thereof may regulate the placement, construction and
13 modification of personal wireless service facilities on the
14 basis of environmental effects of radio frequency emissions
15 to the extent that such facilities comply with the
16 Commission's regulations concerning such emissions."

17 So if in fact it is, there will be compliance with
18 those regulations, I cannot consider evidence regarding any
19 potential health effects of radiation. So I wanted to let
20 you all know that so that you can direct whatever comments
21 you have appropriately.

22 And finally, this matter does not go back to the
23 Council, the Montgomery County Council. This will be
24 decided by the Board of Appeals and if anybody, applicant or
25 opponents, feel offended by what the ruling is by the Board

1 of Appeals, they have a right to appeal to court from there.

2 All right. Oh, I should mention one other thing
3 in this connection. The record established here, all the
4 evidence established here will be the only evidence that the
5 Board of Appeals can consider. You can, after I issue my
6 report, either side can request oral argument. The Board of
7 Appeals can grant or deny that request but even if you, even
8 if they grant the request for oral argument, you can=t add
9 new evidence at that time. They must only consider the
10 evidence in the record as compiled in this hearing.

11 All right. Let me raise a couple of preliminary
12 matters. I=d like an electronic copy in Word of statements
13 that the petitioners submit and any other text documents
14 that may be amended. Some of those have already been
15 submitted. I=d also like PDF files of any amended site
16 plans that have not been submitted or that are changed as a
17 result of this hearing as well as photos and simulations
18 coverage maps. I=d also invite Ms. Stine, who submitted
19 with her letter some photographs and a map, to submit that
20 electronically as well, Ms. Stine, if --

21 MS. STINE: You=ll provide me -- do I bring the
22 copy here to --

23 MR. GROSSMAN: You can bring a CD here.

24 MS. STINE: I will.

25 MR. GROSSMAN: Or you can e-mail it to our office,

1 and we can give you an e-mail address.

2 MS. STINE: Okay. Thank you.

3 MR. GROSSMAN: But it=s helpful.

4 MS. STINE: I=ll do it.

5 MR. GROSSMAN: It=s not required but it is helpful
6 to do it. Okay. And Mr. Donohue, I noticed that you had
7 not filed hard copies of the color photos of your balloon
8 studies for the amended location, nor of the final
9 propagation maps. There was a black and white printout in
10 the file at my office from what was submitted but I
11 wondered, number one, were there subsequent balloon studies
12 to the original ones that were filed where you do have the
13 photos in the file or were they, you=re just relying on the
14 balloon studies from the original location?

15 MR. DONOHUE: We have submitted site plans for the
16 revised location. Those were site plans submitted in
17 December.

18 MR. GROSSMAN: I have those.

19 MR. DONOHUE: Okay. The, we did do a balloon fly
20 in January. January 14th. And one of the matters that I
21 want to submit to you as a preliminary matter is a mailing
22 that was done to the neighbors, and it includes photographs
23 from the balloon fly and other material disseminated to the
24 neighborhood on January the 14th.

25 MR. GROSSMAN: January 14th, 2012?

1 MR. DONOHUE: That=s correct.

2 MR. GROSSMAN: All right. So this has just been
3 done

4 MR. DONOHUE: That=s right.

5 MR. GROSSMAN: And it=s not in evidence yet.

6 MR. DONOHUE: Correct.

7 MR. GROSSMAN: All right.

8 MR. DONOHUE: And well, obviously, we=ll have
9 paper copies for you and electronic copies submitted as
10 well.

11 MR. GROSSMAN: All right. And so Technical Staff
12 has not seen that as well I take it then.

13 MR. DONOHUE: That=s correct.

14 MR. GROSSMAN: All right. Under the Board of
15 Appeals rules, if anything is submitted -- well, first of
16 all, if there are amendments, and that would be considered
17 an amendment to the application, less than 10 days before
18 the hearing, the record must remain open for 15 days
19 thereafter, I suspect it will be longer than that in this
20 case, in order to allow commentary. But in any event,
21 that=s one of the Board rules. And if in fact an amendment
22 to the petition is such that it would prejudice anybody, the
23 Board, or in this case myself, I can continue the hearing.
24 So we=ll look, we=re going to deal with that question in
25 connection with your other amendments in a moment.

1 Okay. Let=s mention that you have, you moved to
2 amend your application a couple weeks ago and we sent out a
3 notice. That=s been opposed by doctor, is it Saphier or
4 Saphier?

5 MR. SAPHIER: Saphier, like the gem.

6 MR. GROSSMAN: Saphier, okay. And by Ms. Stine,
7 both of whom wrote in objecting that essentially, they
8 needed more time to consider the changes that were made.
9 And so my question would be what exactly, what material
10 changes were made in your minds, and this may be modified by
11 whatever changes, if there are, they=re additional changes,
12 but what material changes were made, and I=ll take Ms. Stine
13 first, that you feel warrant postponing this hearing or not
14 going forward on the amended petition? You can step forward
15 right to the microphone, Ms. Stine.

16 MS. STINE: At the time that I wrote in, I had, I
17 had received the notice that there was a request to amend
18 and my biggest concern was that --

19 MR. GROSSMAN: Well, let me, if you=re going to
20 get into what your biggest concern is, let me put you under
21 oath first. Would you raise your right hand?

22 (Witness sworn.)

23 MR. GROSSMAN: All right. So go ahead, ma=am.

24 DIRECT EXAMINATION

25 MS. STINE: Okay. My biggest concern about the

1 amendment was that it was submitted to you on the 23rd but
2 we didn=t receive notice and we didn=t receive an
3 opportunity to get in here until after the new year. So but
4 that turnaround time, in order to come in, get copies of the
5 new documentation to actually look at -- I was examining
6 their site plans, I was looking at the measurements, I was
7 attempting to ensure that everything was either just
8 relocated to the new site or had there been some other
9 significant changes to their proposal that might impact my
10 concerns in the neighborhood.

11 So when I wrote to you and objected, I objected
12 based on the fact that there was such little time for me to
13 review such a volume of data. Being a non-expert myself,
14 you know, I=m doing the layman=s way of looking at this so
15 it does take me more time. Plus, I=m not doing it on a
16 computer. I=m looking at the paper copies that I removed
17 from your building and so forth. So but I am, I am not
18 asking to delay this hearing. I=m prepared to move forward
19 today with the research that I was able to do in the time
20 that, that I was given.

21 MR. GROSSMAN: All right. Then, Dr. Saphier, did
22 you wish to comment on this issue? Let me put you under
23 oath as well, sir. Raise your right hand, please.

24 (Witness sworn.)

25 MR. GROSSMAN: All right.

1 DIRECT EXAMINATION

2 MR. SAPHIER: I said that when I got married too,
3 so I mean it. I reiterate everything she has said and so I
4 don=t want to repeat it, so I agree with that
5 wholeheartedly. I also had an objection that the amendment
6 petition dated December 20th did not mention where their
7 cabinets were going to be located. That=s also true of the
8 petition, the petition to ament nine, three months earlier
9 in September. They then didn=t specify where those cabinets
10 were going to be either. I objected at that time as well
11 for the same reason.

12 MR. GROSSMAN: Right.

13 MR. SAPHIER: So these cabinets obviously need to
14 be within the compound and unless they are within the
15 compound, then we have an absolute objection for safety
16 reasons for the neighborhood.

17 MR. GROSSMAN: Right. We=re going to ask that
18 question in the course of these proceedings, but that goes
19 to the substance. I=m right now dealing with the question
20 of whether or not the application should be allowed to be
21 amended, there was a motion to amend the petition, not as to
22 the substance of the request but just as to that.

23 MR. SAPHIER: Okay.

24 MR. GROSSMAN: Ms. Stine says that, although she
25 wrote in as you did to oppose the amendment to the petition,

1 she said she does not wish to delay the proceedings and we
2 go forward on the amended petition.

3 MR. SAPHIER: And I said that in my letter as well
4 but I also would like to proceed, continue today, but I
5 would request that the petition to be amended be denied and
6 they must come forward with the original petition.

7 MR. GROSSMAN: Okay. But what is the -- let me
8 ask this. That=s not a possibility as a practical matter
9 because of where it was located environmentally. It raised
10 environmental concerns. And so the question really is do we
11 go forward today? Do we allow the amendment and go forward
12 today or is there reason that there=s been such a material
13 change as to affect, you know, what you would testify to
14 that we have to postpone it?

15 MR. SAPHIER: Then I would also like to go forward
16 today.

17 MR. GROSSMAN: All right, sir. All right. Thank
18 you. All right. Anybody else want to be heard on this
19 amendment issue? All right. Mr. Donohue, do you need to
20 say anything on this issue?

21 MR. DONOHUE: I don=t think so.

22 MR. GROSSMAN: All right, sir. All right. Based
23 on that, those statements, I=m going to allow the amendment
24 to the petition that was filed a couple of weeks ago, and
25 the amended petition will be what we consider. That grant

1 of the amendment does not grant the petition. It just
2 allows the applicants to go forward presenting evidence
3 regarding the amended petition which essentially is an
4 amended location where the tower is. I understand it was
5 rotated and moved approximately 40 feet. Is that correct,
6 Mr. Donohue?

7 MR. DONOHUE: That=s correct.

8 MR. GROSSMAN: To get it --

9 MR. DONOHUE: And the first witness will really
10 explain what that=s about and how we got to that change.

11 MR. GROSSMAN: All right. So that amendment will
12 be granted. All right. I should note that I mentioned this
13 15-day delay rule. That=s partly the result of not getting
14 the materials to the Technical Staff in time for them to get
15 a report here five working days before the hearing. As a
16 result, the Technical Staff report did not get here until
17 the 18th, and that is another provision in the Board of
18 Appeals rules that requires that the record be held open for
19 at least 15 days if in fact the Technical Staff report does
20 not get here within five working days of the hearing.

21 All right. I noticed also in preparing for the
22 hearing that the application, Mr. Donohue, specifies that
23 the site is in the R-200 Zone. That actually is incorrect
24 and that it is in the RE-1 Zone. And I think that probably
25 the error is the result of the fact that Cabin Creek Drive

1 itself is in the R-200 Zone but the actual site here is in
2 the RE-1 Zone. However, we do need to have some correction
3 of the application which misstates the zone that it is in,
4 and perhaps the easiest way to do that is --

5 I don=t think that that prejudices anybody because
6 both are residential zones and because of the fact that the
7 actual address of Cabin Creek Drive is in the R-200 Zone. I
8 don=t think anybody is prejudiced by that but I=ll listen to
9 anybody who has something to say about that if anybody feels
10 they=ve been prejudiced by the fact that the application
11 specified R-200 even though the zone of the actual site is
12 Re-1. Mr. Leeger, do you have anything to say about that?

13 MR. LEEGER: Not as far as the zoning, no.

14 MR. GROSSMAN: Okay. Anybody else?

15 MR. DONOHUE: Do you want me to change it?

16 MR. GROSSMAN: Yes. I think, Mr. Donohue, if
17 you=d come forward, and you can actually just cross out the
18 R-200 on the application and then initial and date it, and
19 we=ll consider that an amendment.

20 MR. DONOHUE: Is that the only place you found it,
21 Mr. Chairman?

22 MR. GROSSMAN: I think that=s the only -- well, we
23 had, our notices went out saying R-200 as a result of that
24 but I don=t think we have to amend those. Obviously,
25 notices don=t have to be perfect. They just have to be

1 reasonably calculated to give notice and our notices
2 certainly did do that. Yes, sir. Just identify yourself
3 because there=s so many names I don=t remember everybody=s
4 name so.

5 MR. POTTS: John Potts. Just a clarification of,
6 I think it would help for the record just to state. The
7 date of the amendment to the site plan, the site plan that
8 was mailed out on March the 29th is all that we have. I=m
9 just wondering when exactly the site plan was amended.

10 MR. GROSSMAN: Okay. The site plan amendment that
11 we=re talking about, we received a letter on December 21,
12 2011 dated -- actually, there are two letters. One was
13 received on December 20, 2011, a letter dated December 19th,
14 2011 from Hillorie Morrison, it=s Exhibit 42, and that has
15 revised plans. And we received additional documentation on
16 December 21 regarding it. Let=s see.

17 MR. DONOHUE: Mr. Chairman, the date --

18 MR. GROSSMAN: And then notice --

19 MR. DONOHUE: I=m sorry. The date of the plans
20 that we=ll be using --

21 MR. GROSSMAN: Yes.

22 MR. DONOHUE: -- and that=s your Exhibit 42 --

23 MR. GROSSMAN: Yes.

24 MR. DONOHUE: -- are dated December 16th.

25 MR. GROSSMAN: Okay. That may be the date of the

1 plans. I=m going by when they were submitted here.

2 MR. DONOHUE: Right. But when folks are looking
3 at revision dates on the plans, that=s the pertinent date,
4 12/16.

5 MR. GROSSMAN: Okay. So December 16, 2011 is the
6 revision date on the plans. And then ultimately, notice of
7 the motion to amend was sent out on January 4, 2012, and
8 that notice was Exhibit 49.

9 All right. Now, Mr. Donohue, I=d also like you to
10 address or have a witness address the question of why you
11 need a 115-foot tall tower. I notice that the
12 Telecommunications Facilities Coordinating Group, also known
13 as the TFCG or the Tower Commission, found no significant
14 difference between the propagation at the 115-foot level
15 versus the 95-foot level so, and the propagation maps on
16 which they rely appear to be the same as what you submitted,
17 so I would like a witness to address that, that point.

18 Also, I would like you to have a witness address
19 the allegations made by Ms. Stine in Exhibit 53 that your
20 photographs were not taken, the balloon study photographs
21 were not taken at angles that point to the proposed location
22 of the cell tower, nor when leaves were off the trees, all
23 of which affects the question of visibility of the tower.
24 And you=ve answered one of the questions I wrote down here
25 which is whether you did additional balloon studies. You

1 told me earlier that you did do that and so we=d like to see
2 what they are of course.

3 Also, please have a witness address the question
4 raised by Ms. Stine that the property values will be
5 affected by the tower. Many people have raised that issue.
6 And the question that she and others raised in Exhibit 23
7 and Exhibit 24 as to whether any equipment will be located
8 outside of the fenced compound. Many others have expressed
9 concerns about that and about the safety of batteries,
10 generator noise and fumes. So I=d ask that you address all
11 of those issues which have been raised by the community.

12 And also, an issue has also been raised by the
13 adjacent landowner, Jeffrey Coles, as to whether the
14 perpetual easement, Exhibits 33A, 38A and 48E, give the
15 applicants access for the purpose of this use as proposed.
16 And so first of all, before I invite Mr. Coles up to comment
17 on this, if you, Mr. Donohue, could tell me why -- I notice
18 that there are two different easement documents in the file.
19 One is listed in a number of places, one of which is Exhibit
20 33A, and that appears to be the original perpetual easement
21 which is dated in July of 1983 by Globe Development. And
22 then there was another document signed by Mr. Coles, 38A I
23 think it is, yes.

24 MR. DONOHUE: Is that the document dated May 14th?

25 MR. GROSSMAN: Yes. That=s the document dated May

1 14, 2008. So why is it that we have two documents relating
2 to the easement? I'm curious about that.

3 MR. DONOHUE: Well, it's really a question for Mr.
4 Chaney, Mr. Chairman, but the attempt here was to address
5 questions about the easement and so the documentation
6 submitted and dated 5/14, one is dated 11/2, the other dated
7 5/14, these folks were asked to agree that the easement
8 could in fact be used for ingress and egress to cell site.
9 So it's a bit of a belt and suspenders but it was an attempt
10 to address the question of what about that, what about that
11 ingress/egress issue.

12 MR. GROSSMAN: Okay.

13 MR. DONOHUE: But the preceding document, the
14 document that conveys the easement which runs with the land
15 is something in and of itself is, allows for the ingress and
16 egress I feel.

17 MR. GROSSMAN: All right. So your position is
18 that Exhibit 33A, the original easement document is
19 sufficient --

20 MR. DONOHUE: That's right.

21 MR. GROSSMAN: -- to give you the continuing right
22 to access for the use that you propose here.

23 MR. DONOHUE: Yes, sir.

24 MR. GROSSMAN: And that Exhibit 38A, which is the
25 May 14, 2008 document signed by Mr. Coles, is just icing on

1 the cake sort of.

2 MR. DONOHUE: Yes.

3 MR. GROSSMAN: All right. Mr. Coles, would you
4 come forward here? You might have to bring a chair.

5 (Discussion off the record.)

6 MR. GROSSMAN: Good morning, Mr. Coles. Would you
7 raise your right hand, please?

8 (Witness sworn.)

9 MR. GROSSMAN: All right. You may proceed. Would
10 you tell me why it is you feel that the easement that was
11 granted as I read earlier in Exhibit 33a, which is
12 effective, looks like it was filed with the land records and
13 it=s dated in July of 1983, and to add to that, the May 14,
14 2008 document, Exhibit 38A that you signed, why they are not
15 sufficient to grant the easement that the applicant=s feel
16 they have.

17 MR. COLES: Okay. Well, first I=d like to speak
18 to the easement dated in May of '08. That was given to me
19 at a time when I knew very little about what T-Mobile had
20 proposed to do. They did not give indication that, what the
21 regular use of the easement would be for, they did not give
22 indication that the cell tower could be leased to multiple
23 carriers at the time. So this was given at the very
24 beginning of this whole process and it was made to seem that
25 this would be a minor inconvenience when it=s turning out to

1 be the exact opposite. After that point --

2 MR. GROSSMAN: When you say it=s turning out to
3 be, I mean, they haven=t put up the facility yet so it=s --

4 MR. COLES: But from the public meetings, from the
5 information that I=ve asked T-Mobile directly, from
6 information I=ve researched from similar cases, that the use
7 of both this easement would be, it=s a lot more to it, be
8 getting a lot more use and I have, and it will be used by
9 multiple carriers. And because of that, there are several
10 reasons why I=ll get into, in a minute into why I revoked
11 the right to use this easement, and I sent a letter to you,
12 to three people at T-Mobile and to the agents.

13 MR. GROSSMAN: Well, what=s your legal basis for
14 thinking that you have a right to revoke it unilaterally,
15 that is without the consent of the grantee of the easement?

16 MR. COLES: Well, there was no begin date, there
17 was no end date to this, this easement. There was also no
18 consideration given for this, for the easement.

19 MR. GROSSMAN: For the original easement?

20 MR. COLES: No. For --

21 MR. GROSSMAN: Or for the, for the letter that you
22 wrote in May?

23 MR. COLES: For the letter that I signed.

24 MR. GROSSMAN: All right. And what about the
25 original easement which is perpetual easement by its own

1 terms?

2 MR. COLES: Yeah, right. Well, this comes down to
3 a case of -- and I=m not an attorney, okay, however, I=d
4 like to say, qualify myself for a number of reasons. Number
5 one, I am a licensed broker in the state of Maryland and
6 multiple states.

7 MR. GROSSMAN: Licensed real estate broker?

8 MR. COLES: Real estate broker, yes. I am, I
9 typically sell property on the commercial side. I sell
10 apartment communities, multi-family housing up and down the
11 East Coast. I have been in the business 20 years. I=ve
12 been with the same firm doing this for 17 years. I do
13 investment sales. I do consultation. I also do valuation.
14 So and this is what I sell. It=s still residential
15 property. People live there. I have to make a
16 determination of what affects value every day. So I=d like
17 to qualify myself a little bit that I understand where value
18 is concerned.

19 MR. GROSSMAN: Well, if you=re attempting to
20 qualify yourself as an expert for your testimonial purposes,
21 we can deal with that in terms of other things you may
22 testify to but --

23 MR. COLES: Yes.

24 MR. GROSSMAN: -- here is a legal question.

25 MR. COLES: Right.

1 MR. GROSSMAN: And I, it=s not so much a question
2 of your legal expertise as I want to know what your legal
3 argument is that, or if you have an attorney or want to file
4 something on it, but some legal basis because it looks like
5 the terms of the easement say it=s perpetual easement so I=m
6 not sure --

7 MR. COLES: And I=ll give that to you right now.

8 MR. GROSSMAN: All right, sir.

9 MR. COLES: I wanted to get it out before I forgot
10 to say it, okay, so.

11 MR. GROSSMAN: Yes.

12 MR. COLES: On a legal basis, this easement says
13 that it=s been granted based upon, for a reasonable
14 pedestrian, pedestrian and vehicular use --

15 MR. GROSSMAN: Right.

16 MR. COLES: -- by the grantee. There are arrows
17 and/or signs. The question comes down, number one is what
18 is considered reasonable, okay? Reasonable, if I look up
19 the legal definition for reasonable, is the standard for
20 what fair and appropriate, the standard for what is fair and
21 appropriate under usual and ordinary circumstances. My
22 argument is that this is not, commercial use of this
23 easement, of my driveway by, for construction, for
24 maintenance, for repair of a commercial tower used by
25 commercial trucks is not considered, at their will, is not

1 considered fair and appropriate or usual and ordinary.

2 This is a residential driveway. I understand that
3 this is zoned R-200. It is a residential neighborhood and I
4 know you say that zoning cannot be, you know, the zoning
5 allows for, it allows for you to permit the use of
6 construction of a cell phone tower but when I bought in this
7 neighborhood, my neighbors bought in this neighborhood, but
8 specifically me, it was because I bought into a neighborhood
9 that is, that has no commercial uses to it. And I
10 understood that there is a driveway easement but the
11 driveway easement was for residential use.

12 It also, I go back to besides what=s being
13 reasonable is what was the original intent of this easement.
14 I didn=t craft the easement. Noone in this room crafted the
15 easement. But originally, this is a development. It=s a
16 residential neighborhood that was developed by a local home
17 builder, typically homes and footprints of these homes are
18 typically the same, and the original purpose of this
19 easement was so, it was for residential uses. It was not
20 for commercial uses. That is basically the crux of my legal
21 argument.

22 MR. GROSSMAN: Do you have any case authority by
23 the way for the proposition or is this, do you have any case
24 law that supports your argument that this proposed use as a
25 cell tower is not a reasonable use for this easement?

1 MR. COLES: No.

2 MR. GROSSMAN: Okay.

3 MR. COLES: No, I do not.

4 MR. GROSSMAN: All right.

5 MR. COLES: Now, you asked me about what legal
6 basis and I have reasons. Well, also, there are reasons why
7 I consider this unreasonable besides the use of commercial
8 trucks. I can go into that if you like but you asked me
9 about --

10 MR. GROSSMAN: Whatever evidence that you want to
11 present on the question of --

12 MR. COLES: Okay.

13 MR. GROSSMAN: -- the easement, that=s what I=m
14 looking for here.

15 MR. COLES: Well, besides determining, having the
16 basis set up that what is the definition of reasonable and
17 what was the original intent, if T-Mobile uses this driveway
18 for their purposes, I=m harmed. There=s a certain burden
19 that=s placed on me and I want to bring up a point. This
20 driveway isn=t shared just by myself. It=s shared by the
21 house next door to me so currently, there=s noone who --

22 MR. GROSSMAN: Which is owned by the bank.

23 MR. COLES: Is owned by Wells Fargo.

24 MR. GROSSMAN: And we=ve, they=ve been notified.
25 They have not come in here, sir.

1 MR. COLES: Yes, but whatever damages and burden
2 that I incur, those families, whoever is going to own, and
3 there will be someone in the future that owns in that house,
4 will be burdened by the same thing so --

5 MR. GROSSMAN: Well, I can only go by the fact
6 that as far as they=re concerned, we=ve notified the bank
7 and they have not filed anything, nor do they appear to be
8 here.

9 MR. COLES: Sure. Okay. This is what I, the
10 damages that I would incur. Number one would be loss of
11 quiet enjoyment, okay? The noise from these commercial
12 trucks, like I said for construction, repair, maintenance,
13 delivery of the generators, will therefore be causing a
14 nuisance to me. My bedroom faces this driveway. All of the
15 major living areas of my house I use on a regular basis when
16 I=m in the house face the driveway. Any vehicle that goes
17 up and down that driveway I hear. Any large vehicle is a
18 disturbance within my home.

19 Not only would these big trucks, commercial trucks
20 be from T-Mobile, their plans are, I know the County has
21 kind of, the County has been influenced on this, their plans
22 are to lease out to two other cell, cell phone companies.
23 So it could be, for example, T-Mobile, Verizon and Sprint
24 trucks running up and down the driveway. I was told by T-
25 Mobile that they need to maintain this tower at least once a

1 month, okay? I take that with a grain of salt because I
2 don=t know what that means. I=m not in the business. I
3 have to rely on what they tell me. It can be more than
4 that, but then you have, you multiply that by three.

5 If there=s any repair that needs to be, that
6 happens or maintenance at the top of the tower in the
7 antennas, they have to bring cherry pickers in which are
8 again, larger commercial vehicles. If there is a loss of
9 power, they bring in generators and these generators last,
10 typically what they told us last Saturday at a public
11 meeting, that they would need to be refueled every 12 hours.

12 This is a rural, a suburban development and when
13 the power goes out, it just doesn=t go out for an hour or
14 two and BGE is Johnny-on-the-spot fix-it, it goes out for a
15 period of time. You can at least expect a day, sometimes a
16 few days, sometimes it=s a week. So if the power, my
17 understanding if the power goes out, I=ll have trucks
18 running up and down my driveway, refueling, bringing
19 generators here to keep this thing going, okay?

20 Number two, besides loss of quiet enjoyment,
21 there=s diminished value, and this is also a major sticking
22 point for me. The original intent when I bought my home,
23 well, originally when I bought my home, part of its value
24 inherently built into that was that it=s not in a commercial
25 neighborhood. It=s not commercial uses.

1 MR. GROSSMAN: We're not dealing with the issue
2 now of whether or not the cell tower affects property
3 values. We're dealing with only the legal issue regarding
4 the easement, and I'll let you testify at the appropriate
5 time regarding concerns you might have about the, any
6 potential effect on value but I'm just addressing the legal
7 question of the easement --

8 MR. COLES: Okay.

9 MR. GROSSMAN: -- as a preliminary matter, really,
10 in this case because it's unusual to have this, this kind of
11 an issue.

12 MR. COLES: And not being an attorney --

13 MR. GROSSMAN: Yes.

14 MR. COLES: -- I'm not sure where, which one
15 crosses the line because diminished -- if legal use of the
16 easement --

17 MR. GROSSMAN: You're addressing the value as it
18 pertains to the easement?

19 MR. COLES: Yes.

20 MR. GROSSMAN: Okay.

21 MR. COLES: If you use --

22 MR. GROSSMAN: Go ahead.

23 MR. COLES: Okay. If -- and I go back to
24 inherently built in the value of my home that this is used
25 for, is residential use. No other uses besides that. If

1 you change that use, okay, then it changes the value. It
2 affects the value of that home. If you change it to where
3 you have commercial vehicles going up and down your
4 driveway, it changes the value of that home. It=s a
5 negative impact. It=s a burden because the use of that
6 easement by a commercial company negatively impacts me,
7 negatively impacts the value. Not only impacts the value of
8 my home, I know I can=t testify to the neighbor next door,
9 but it will do theirs, it will negatively impact theirs too.
10 I do this all day long. I value property. And I value
11 property with cell towers on it.

12 MR. GROSSMAN: All right. I don=t want to hear
13 that --

14 MR. COLES: Okay. That goes back to -- okay. It
15 doesn=t go back to use of an easement.

16 MR. GROSSMAN: Right.

17 MR. COLES: Number three would be, would be
18 increased wear and tear on my property and on my driveway,
19 okay? Again, it=s the use, heavy equipment, multiple
20 companies using this, having unrestricted use to my
21 driveway, again, is a burden that I would have to bear.

22 And lastly would be life safety issues where my
23 driveway is not a highway. It=s for families, it=s for
24 regular pedestrian passive uses and these commercial trucks,
25 I=ve had damage, and I submitted this and I=m not sure if my

1 letters to you are considered evidence into this case, but
2 I=ve had my property damaged a number of times. Very few
3 times people have come up and admitted to it. Some of it
4 has cost me thousands of dollars.

5 MR. GROSSMAN: Are you suggesting that your
6 property was damaged by T-Mobile?

7 MR. COLES: No. I=m suggesting that excessive use
8 is an increased risk to damage and that increased risk is a
9 burden that I have to, that I would bear. And that, again,
10 goes back to whether or not it=s reasonable, whether or not
11 it=s considered fair and appropriate under the easement and
12 also, if these are usual and ordinary circumstances. It=s
13 not an ordinary circumstance for you to have commercial
14 trucks running up and down your driveway. I mean, it comes
15 down to almost common sense.

16 When I purchased this home, I bought the home
17 because it=s a residential neighborhood and I expect to have
18 quiet enjoyment of my property. I understand that there=s
19 an easement to the Gibson=s back. I was fully aware of that
20 when I, when I purchased the property. What was, what is
21 unusual is to have commercial trucks running up and down
22 your driveway.

23 MR. GROSSMAN: Well, this is your signature on the
24 document, Exhibit 38A, the document dated May 14, 2008, is
25 it not?

1 MR. COLES: Yes, it is.

2 MR. GROSSMAN: And that=s on T-Mobile stationery.

3 MR. COLES: Yes, it is. Or their agents, their
4 agents.

5 MR. GROSSMAN: And it says to whom it may
6 concerned, the undersigned are the owners of Lot 12, Block K
7 in the subdivision known as Fairland Gardens, otherwise, and
8 they describe the land. And hereby grant T-Mobile, its
9 successors and assigns, rights of ingress and egress and
10 without reading the rest, along this driveway.

11 MR. COLES: Yes.

12 MR. GROSSMAN: Is that correct what you signed?

13 MR. COLES: That=s correct.

14 MR. GROSSMAN: Were you given consideration for
15 that?

16 MR. COLES: No, I was not.

17 MR. GROSSMAN: Okay. And --

18 MR. COLES: I was not given full disclosure.

19 MR. GROSSMAN: And why did you sign that document?

20 MR. COLES: I signed it because I was made to
21 believe that this would be a minor nuisance, that it was
22 basically to be used for construction and I=d hardly ever
23 see them again. That is not the case. And just as a
24 reminder and to go on record, on November 8, 2011, I sent to
25 the president of T-Mobile, Philip Humm, to the site

1 acquisitions and zoning for T-Mobile, to Hillorie Morrison,
2 the senior zoning manager and agent for T-Mobile, and to
3 you, yourself, a letter stating that I revoke any use in any
4 circumstances the rights for my easement to be used by T-
5 Mobile.

6 MR. GROSSMAN: Right. I don=t think anybody
7 disputes that you sent out those letters. The question is
8 whether or not you have the power at this stage to do that,
9 to revoke that easement. All right. Let me hear from Mr.
10 Donohue on the point.

11 MR. DONOHUE: Well, Mr. Chairman, the, some things
12 are very clear. I think Mr. Coles has been given a rather
13 large latitude to explain his opposition --

14 MR. GROSSMAN: Yes.

15 MR. DONOHUE: -- which we understand but I=d ask
16 you to reflect on the 1983 document which is not limited,
17 does particularly talk about the successors and assigns, and
18 then the addition of the May 14, '08 letter signed by Mr.
19 Coles and you asked or you read a couple of the lines from
20 there but I=m going to read the last line. Mr. Coles can
21 look at it too, but it says for purposes of erecting and
22 maintaining a wireless communication facility at 2815 Cabin
23 Creek Drive. There are no limitations there on the number
24 of users or number of trips or duration of the easement.
25 This is Mr. Coles= signature agreeing to T-Mobile=s proposal

1 that it be, that the easement contemplates this kind of
2 thing, and that=s the reason that the letters were prepared
3 and circulated for signature. I understand that he=s
4 changed his mind and now he=s in opposition to the case, and
5 he can speak in opposition but I think the easement issue is
6 very clear.

7 MR. GROSSMAN: Was there any consideration for Mr.
8 Coles to sign this May 14, 2008 document?

9 MR. DONOHUE: No. No, sir.

10 MR. GROSSMAN: Okay. All right. Well, there=s a
11 legal question regarding that. Are you going to have
12 evidence regarding the maintenance --

13 MR. SAPHIER: Sir, can I add something?

14 MR. GROSSMAN: Yes. I=m not going to rule now.
15 I=m just going to, I=m asking a question of Mr. Donohue.
16 Are you going to have evidence regarding the maintenance and
17 frequency of maintenance for this facility?

18 MR. DONOHUE: Yes, sir.

19 MR. GROSSMAN: Okay.

20 MR. COLES: Can I ask a question?

21 MR. GROSSMAN: Yes, Mr. Coles.

22 MR. COLES: The evidence that he=s going to
23 provide, that will only be for T-Mobile. That will not be
24 for -- he cannot provide evidence based upon any other, two
25 other companies that --

1 MR. GROSSMAN: Well, maybe he can or maybe he
2 cannot. We'll find out when he submits his evidence on that
3 point.

4 MR. DONOHUE: I'm going to object to further
5 opposition. The applicant hasn't even presented its case in
6 chief yet --

7 MR. GROSSMAN: Right.

8 MR. DONOHUE: -- and we're hearing a lot of
9 opposition.

10 MR. GROSSMAN: Well, right now we're talking about
11 the easement issue which I consider a preliminary issue to
12 the case.

13 MR. DONOHUE: Well, we're talking about a lot of
14 things.

15 MR. GROSSMAN: But I'm addressing the easement
16 issue.

17 MR. DONOHUE: Fair enough.

18 MR. GROSSMAN: And anybody else who wants to
19 comment on the easement issue can now and then we'll go on
20 from there. All right. Thank you, Mr. Coles. Let me --

21 MR. ALBERT: I just have a question to what Mr.
22 Donohue --

23 MR. GROSSMAN: Come on forward because I know we
24 have --

25 (Discussion off the record.)

1 MR. GROSSMAN: All right, sir. Once again,
2 identify yourself for the record.

3 MR. ALBERT: Alan Albert.

4 MR. GROSSMAN: All right, Mr. Albert.

5 MR. ALBERT: Mr. Donohue, one question in terms of
6 the date that you stated. Can you tell me that once again?

7 MR. GROSSMAN: The date that he stated for what?

8 MR. ALBERT: Just a moment ago in terms of the
9 original date.

10 MR. GROSSMAN: The date of the original easement
11 you mean?

12 MR. ALBERT: No. He stated, of the, of the
13 property. It was 1983 did you say?

14 MR. GROSSMAN: No. I said. I stated that the,
15 there is the original easement that is in issue is Exhibit
16 33A, in the record is dated July 1, 1983. That=s perpetual
17 easement.

18 MR. ALBERT: Well, that easement was before the
19 community was built.

20 MR. GROSSMAN: That=s not really the issue. The
21 issue is a legal issue as to whether or not that easement
22 has perpetual legal effect.

23 MR. ALBERT: All right. That=s fine. I just want
24 it noted that --

25 MR. GROSSMAN: I understand.

1 MR. ALBERT: -- you know, this is before the
2 actual development of the St. Andrews community.

3 MR. GROSSMAN: All right, sir.

4 MR. ALBERT: Okay?

5 MR. GROSSMAN: All right. Is there anybody else
6 who wanted to be heard, Dr. Saphier, on this easement point?

7 MR. SAPHIER: Yes. On the point of reasonable and
8 residential. This was brought up at the July, not July,
9 January 14th meeting we had six days ago where Tracy
10 Anderson was representing T-Mobile as their lawyer at the
11 time. Mr. Coles, at that time, said reasonable and
12 residential. The word residential is not in the easement,
13 but Mr. Coles said reasonable and residential and Ms.
14 Anderson nodded her head in agreement, yes, reasonable and
15 residential. That was very clear to me and I'm sure
16 everyone else in the room. She thereby agreed that this was
17 for residential use by agreeing to what Mr. Coles said. I
18 bring that up.

19 MR. GROSSMAN: That is not going to have any
20 impact on --

21 MR. SAPHIER: Okay.

22 MR. GROSSMAN: My ruling on this is going to be on
23 the legal issue of whether or not there=s an easement.

24 MR. SAPHIER: Right. But when you build a
25 driveway, you build it for its intended use. This is a

1 residential neighborhood, residential use. The driveway is
2 built for residential vehicles, cars, light trucks. It is
3 not built for heavy commercial trucks. Clearly, T-Mobile is
4 a commercial enterprise and they=re going to bring in --

5 MR. DONOHUE: Objection, Mr. Chairman. Objection.

6 MR. GROSSMAN: Yes. What=s your objection, Mr.
7 Donohue?

8 MR. DONOHUE: It=s beyond the scope of the
9 explanation to the easement. He=s testifying in opposition.
10 We understand he=s opposed. This doesn=t go, it=s not
11 pertinent to the issue at hand.

12 MR. SAPHIER: It most certainly is.

13 MR. GROSSMAN: I think it may be pertinent to the
14 question of the easement and so, but you=re making an
15 assumption as to the size of the vehicles. We=ll hear,
16 presumably, from Mr. Donohue and I=m not going to rule on
17 this easement issue here today. I=m going to hear the whole
18 case. But we=ll hear from Mr. Donohue=s witnesses as to the
19 nature of any use of that driveway and then based on all the
20 evidence, I=ll make whatever decision I need to make
21 regarding the easement.

22 Once again, it will be the Board of Appeals that
23 will make a final administrative decision. However, you
24 know, courts review that kind of question and I suspect that
25 any, if there is a special exception granted here, it will

1 be subject to any final ruling on the easement issue in any
2 event so.

3 MR. SAPHIER: Yes. So I just wanted to point out
4 that a residential grade driveway is not commercial grade
5 and unreasonable.

6 MR. GROSSMAN: Mr. Gibson?

7 MR. GIBSON: Yes.

8 MR. GROSSMAN: Did you want to be heard on this
9 easement issue?

10 MR. GIBSON: Well, the only thing I want to say
11 is --

12 MR. GROSSMAN: You have to --

13 MR. GIBSON: -- the driveway was in before the
14 houses were built.

15 MR. GROSSMAN: All right, sir. If you want to be
16 heard, you have to come forward and I'll have to put you
17 under oath.

18 MR. GIBSON: Okay.

19 MR. GROSSMAN: Will you state your name and
20 address, sir?

21 MR. GIBSON: Sir?

22 MR. GROSSMAN: State your name and address.

23 MR. GIBSON: Ralph E. Gibson, 2815 Cabin Creek
24 Drive.

25 MR. GROSSMAN: All right. Would you raise your

1 right hand, please?

2 MR. GIBSON: Yes, sir.

3 (Witness sworn.)

4 DIRECT EXAMINATION

5 MR. GROSSMAN: All right. Now, what did you wish
6 to say?

7 MR. GIBSON: What I want to say is the driveway
8 was put in before the houses were built.

9 MR. GROSSMAN: Right.

10 MR. GIBSON: Because I got the driveway by letting
11 them come across my property. The builder, bringing the
12 sewer and water across my property.

13 MR. GROSSMAN: All right.

14 MR. GIBSON: Now, the, I had a little construction
15 business myself. I had it for years. And I=ve brought my
16 trucks. I=ve got trucks there. I run my trucks back and
17 forth over it lots of times. I, I did roofing, I did all
18 kind of repairs and remodeling, and I=ve done it right from
19 home.

20 MR. GROSSMAN: So you=re saying that the driveway
21 is capable of handling commercial vehicles?

22 MR. GIBSON: Yes, it is.

23 MR. GROSSMAN: All right.

24 MR. GIBSON: The driveway is fine and I brought,
25 had gravel, big gravel trucks go over it with 20 ton on

1 them, and I don=t believe that they=ll have anything that
2 big.

3 MR. GROSSMAN: All right. Since that=s a
4 substantive point, Mr. Leeger, did you wish to ask Mr.
5 Gibson any questions regarding what he just said?

6 MR. LEEGER: I=ll defer to when we get into the
7 opposition.

8 MR. GROSSMAN: All right. Anybody else? All
9 right. Not seeing any hands --

10 MR. COLES: I do.

11 MR. GROSSMAN: Mr. Coles, come forward, please.
12 You wanted to ask Mr. Gibson cross-examination question on
13 that one point?

14 MR. COLES: Yeah.

15 CROSS-EXAMINATION

16 MR. COLES: Mr. Gibson, how many times do you use,
17 say in a week, any commercial vehicles on that driveway?

18 MR. GIBSON: Well, I went in and out of it every
19 day when I was in business but you know --

20 MR. COLES: When were you in business?

21 MR. GIBSON: I was in business, it=s been about 10
22 years ago now. You know, I=ve gotten so old I couldn=t do
23 it. I broke down. I can=t hardly walk, so I don=t think I
24 can do much construction anymore so I retired.

25 MR. COLES: Okay.

1 MR. GIBSON: But I had brought big loads in. You
2 brought stuff in there. I saw you bring a Bobcat on a
3 trailer and a big truck pull it to dig up your basement, dig
4 up the side of your basement. He come right in on the
5 driveway. He didn=t hurt it.

6 MR. COLES: That was one, one use.

7 MR. GROSSMAN: Well, you=re not testifying.

8 MR. COLES: One use because I had a leaky
9 basement.

10 MR. GIBSON: One use. Well, you used it.

11 MR. GROSSMAN: Well, you=re not testifying now.
12 You=re asking questions.

13 MR. COLES: Okay. Okay. And but today, in the
14 last 10 years or so, you don=t have frequent use of the
15 driveway in a commercial truck.

16 MR. GIBSON: Well, the driveway from the road to
17 your house, is there anything wrong with it? We=ve been
18 over it about 100 times.

19 MR. DONOHUE: I think he got his answer. He got
20 his answer.

21 MR. GROSSMAN: He can=t answer you in this format.
22 He can just ask questions and you can answer the questions.

23 MR. GIBSON: Okay.

24 MR. GROSSMAN: That=s the format. So you answer
25 the questions.

1 MR. GIBSON: All right.

2 MR. COLES: All right. Thank you.

3 MR. GROSSMAN: All right. Thank you, Mr. Coles.

4 All right. Any redirect? All right. Thank you, Mr.
5 Gibson.

6 MR. GIBSON: Thank you.

7 (Discussion off the record.)

8 MR. GROSSMAN: All right. Thank you. Anything
9 further on this easement question now subject to your
10 producing whatever evidence, Mr. Donohue, you wanted to
11 present regarding the usage of the driveway later?

12 MR. DONOHUE: Mr. Chaney, the first witness, will
13 explain and be able to answer questions about ingress and
14 egress. I think we'll get there pretty quickly.

15 MR. GROSSMAN: All right. Mr. Coles?

16 MR. COLES: You asked me about the case study.

17 MR. GROSSMAN: Case law.

18 MR. COLES: Case law. If I find any, can I submit
19 that?

20 MR. GROSSMAN: Yes. I'm going to keep the record
21 open at least 15 days after this hearing and I'm going to
22 allow both Mr. Donohue and you to submit any, or anybody
23 else who wishes to, to submit a legal analysis of this
24 easement question while the record is open. Mr. Leeger?

25 MR. LEEGER: Point of information on that. If Mr.

1 Donohue and the opposition puts any information within the
2 15 day or more period, is there then an opportunity to ask
3 questions about what=s submitted or is that a final
4 submission and there=s no more discovery or any questions?

5 MR. GROSSMAN: There won=t be an opportunity to
6 ask questions regarding that but there will be an
7 opportunity, what I=ll do is I=ll set up a time period for a
8 filing and I=ll set up a time period for a response.

9 MR. LEEGER: And there will be a place we can come
10 in and review it or get copies, we=ll have distribution of
11 information to the entire effected area?

12 MR. GROSSMAN: What I think the best, simplest
13 thing to do is when you signed in, did you put an email
14 address on the sign-in sheet?

15 MR. LEEGER: Yes.

16 MR. GROSSMAN: I would ask the, whoever files
17 something to send an e-mail copied to everybody who has
18 signed in on the sheet and that will ensure that people will
19 have a copy of what is filed.

20 MR. LEEGER: Thank you.

21 MR. GROSSMAN: Okay. Sure. All right. Now, let
22 me move onto the next issue, the question of the water
23 quality plan. I saw from the Technical Staff report, which
24 was received here on the 18th of January, that the water
25 quality plan was approved by the Planning Board on January

1 12, 2012. Is that the final version of the plan or is there
2 a final plan or is that the final -- I haven't seen the
3 final.

4 MR. DONOHUE: It's the final. We haven't seen the
5 final, we haven't seen the order from the Planning Board but
6 they did, in open session, they did approve the water
7 quality plan.

8 MR. GROSSMAN: Okay. That's apparently not in the
9 record yet other than just the statement, the bold statement
10 in the Technical Staff report so during the period that the
11 record remains open, I'd ask you, Mr. Donohue, to submit a
12 copy of the approved water quality plan.

13 There's an affidavit, the next item, there's an
14 affidavit from Hillorie Morrison in the file, Exhibit 45,
15 regarding the proposed North Star batteries. My question is
16 how can that document dated May 8th, 2011 have been sworn to
17 on November 23, 2010? That's Exhibit 45 in the record.

18 MR. DONOHUE: That's a good question. We have Mr.
19 Matt Chaney to testify to the battery issue so perhaps we
20 can address that. I'm not sure about the notary date, Mr.
21 Chair. I'll look into it.

22 MR. GROSSMAN: All right. Yes. You can file
23 something while the record is open explaining that. I mean,
24 I've seen similar affidavits from T-Mobile in other T-Mobile
25 cases, maybe signed by Hillorie Morrison I can't recall, but

1 that just struck me as unusual that you have a notary
2 signing, swearing out something and then the date is
3 actually after the notary has signed it.

4 All right. I guess that pretty much handles my
5 preliminary matters. Did you have any other preliminary or
6 procedural matters?

7 MR. DONOHUE: I have a couple preliminary matters,
8 Mr. Chair. Let=s start with Mr. Chaney since I just
9 mentioned him. I=m going to submit his resume. He is
10 speaking instead of Ms. Hillorie Morrison as a
11 representative from, representing T-Mobile and has extensive
12 experience before the Board, before the Office of Zoning and
13 Hearing. His resume is here. He is also familiar with the
14 site as well. As I mentioned, Mr. Chair, he=s going to be
15 explaining the issues of site selection, site acquisition,
16 addressing things like ingress, egress, maintenance, et
17 cetera. We have a number of witnesses here and --

18 MR. GROSSMAN: I=m going to ask you about that in
19 one second.

20 MR. DONOHUE: Yes, sir.

21 MR. GROSSMAN: Let=s see. That will be Exhibit 59
22 is Matt Chaney resume.

23 (Exhibit No. 59 was marked for
24 identification.)

25 MR. GROSSMAN: All right. So, Mr. Donohue, you

1 plan to call Matt Chaney.

2 MR. DONOHUE: Correct.

3 MR. GROSSMAN: And who else are you going to be
4 calling?

5 MR. DONOHUE: Mr. Matt Butcher at Sitesafe. I
6 want to give you copies of his resume as well. Mr. Butcher
7 was asked to --

8 MR. GROSSMAN: Is that spelled B-U --

9 MR. DONOHUE: Just like it sounds, yes.

10 MR. GROSSMAN: Butcher. B-U-T-C-H-E-R. Thank
11 you.

12 MR. DONOHUE: Mr. Butcher was, appeared before
13 both the community meetings. He was at the most recent one
14 in January. He was at the earlier one back over the summer.
15 Mr. Butcher is a qualified expert in RF emissions and let me
16 explain, Mr. Chair, before I get myself in trouble.

17 You correctly cited the federal law that prohibits
18 or preempts the Board from considering RF emissions.
19 However, RF emissions and RF interference is often
20 questioned, particularly at community meetings. So T-
21 Mobile, like many other wireless providers, attempts to
22 address the issue of RF interference and RF emissions and
23 Mr. Butcher has prepared a radio frequency, or RF report,
24 and he=s prepared to testify in his capacity as an RF
25 expert.

1 MR. GROSSMAN: All right. Exhibit 60 then is Mr.
2 Butcher=s resume.

3 (Exhibit No. 60 was marked for
4 identification.)

5 MR. GROSSMAN: Other witnesses you plan to call?

6 MR. DONOHUE: Mr. Oakleigh Thorne is a witness I
7 plan to call. His resume has been submitted previously.

8 MR. GROSSMAN: Yes.

9 MR. DONOHUE: Mr. Thorne is an expert in property
10 valuation. I think he=s familiar to the Chair.

11 MR. GROSSMAN: Yes, he is.

12 MR. DONOHUE: Mr. Camille Shabshab is here. Mr.
13 Shabshab is an expert and a civil engineer. He prepared the
14 plans. His firm has been involved extensively with the
15 site. He has issues. What I=m probably going to do is ask
16 him to respond to questions about the compound, the
17 orientation of the compound, et cetera. Mr. Chaney is going
18 to cover that at first cut.

19 MR. GROSSMAN: All right.

20 MR. DONOHUE: I would like to submit Mr. Butcher=s
21 report.

22 MR. GROSSMAN: Before you do that, are there any
23 other witnesses you plan to call?

24 MR. DONOHUE: Our RF engineer, Curtis Jews. His
25 resume was submitted previously.

1 MR. GROSSMAN: Yes.

2 MR. DONOHUE: And I think he=s also familiar to
3 the Chair.

4 MR. GROSSMAN: Yes.

5 MR. DONOHUE: Mr. Jews is a qualified expert in
6 radio frequency propagation.

7 MR. GROSSMAN: All right. So you have five
8 witnesses. That=s it?

9 MR. DONOHUE: That=s all, yes.

10 MR. GROSSMAN: All right.

11 MR. DONOHUE: We may be able to keep it at four.

12 MR. GROSSMAN: All right. Now, you indicated you
13 have your Affidavit of Posting?

14 MR. DONOHUE: Yes, sir.

15 MR. GROSSMAN: And the Affidavit of Posting is an
16 affidavit from the applicants indicating that they had the
17 property posted with a notice sign for the required period
18 of time. That will be Exhibit 61.

19 (Exhibit No. 61 was marked for
20 identification.)

21 MR. GROSSMAN: Sir, I notice it=s not notarized.

22 MR. DONOHUE: Ms. Forbes just gave it to me last
23 night. She didn=t notarize it.

24 MR. GROSSMAN: Ms. Forbes can=t, she=s not a
25 notary, but the Board of Appeals, during a break --

1 MR. DONOHUE: I=ll take care of it.

2 MR. GROSSMAN: -- you can have the Board of
3 Appeals notarize it. All right. So it may not be Exhibit
4 61. You had, you said you had some additional documents you
5 wanted to have marked?

6 MR. DONOHUE: I do. As mentioned, we had a
7 community meeting on January 14th. This is a mailing that
8 went out to all the folks that attended the community
9 meeting in addition to folks that had signed up and had
10 indicated interest in the case with a number of attachments.
11 The Chair asked about photo simulations. We did do a
12 balloon fly on January 14th. We took additional
13 photographs, so the photos and photo simulations are
14 attached. A number of things are included there, Mr. Chair.
15 I think you can mark that all in one exhibit but I don=t
16 know.

17 MR. GROSSMAN: All right. So mailing with
18 attachments. I guess that=s a T-Mobile mailing.

19 MR. DONOHUE: It is. Right.

20 MR. GROSSMAN: With attachments to community. And
21 what was, when, it=s not dated. When was this mailed?

22 MR. CHANEY: This went out on Wednesday which
23 would be the 18th.

24 MR. DONOHUE: 1/18, Mr. Chair.

25 MR. GROSSMAN: On 1/18/12. And that will be

1 Exhibit 61.

2 (Exhibit No. 61 was marked for
3 identification.)

4 MR. GROSSMAN: I'm not sure that everybody will
5 have received it if it was mailed --

6 MR. DONOHUE: It was sent electronically.

7 MR. GROSSMAN: I see. Okay. It was sent out by
8 e-mail?

9 MR. DONOHUE: That's right.

10 MR. GROSSMAN: Okay.

11 MR. DONOHUE: The document that I just handed you,
12 Mr. Chairman, is the document prepared by Sitesafe signed by
13 Mr. David Cotton. Mr. Cotton works for Mr. Butcher. It's
14 dated August 2, 2011 and it's the mentioned RF analysis.
15 It's titled as Site Compliance Report.

16 MR. GROSSMAN: Okay. So Exhibit 62 is Site
17 Compliance Report (RF Analysis of August 2, '11).

18 (Exhibit No. 62 was marked for
19 identification.)

20 MR. GROSSMAN: All right. Anything further you
21 wanted marked?

22 MR. DONOHUE: Not at this time.

23 MR. GROSSMAN: All right. Mr. Leeger, did you
24 have any preliminary matters you wanted to discuss before we
25 move into the opening statements?

1 MR. LEEGER: I would like a point of information.

2 MR. GROSSMAN: Yes, sir.

3 MR. LEEGER: On a special exception on a
4 residential property for something that is deemed allowable,
5 is the purpose of it, it=s not pre-approved, it=s to make
6 the case that this should be allowed on this property,
7 correct?

8 MR. GROSSMAN: That=s correct.

9 MR. LEEGER: So the fact that it is allowable does
10 not automatically grant that they should be able to do it.
11 It is then open for discussion and review, is this a good
12 use for that property given the development of that area?

13 MR. GROSSMAN: Well, it=s not exactly a question
14 of whether it=s a good use. You=re correct in that it=s
15 open for review. The question is whether the applicants
16 have met their burden of establishing that they satisfy the
17 conditions in the Zoning Ordinance.

18 MR. LEEGER: Okay.

19 MR. GROSSMAN: And that=s by a preponderance of
20 the evidence standard. But the Zoning Ordinance also says
21 that if in fact there=s no demonstration of or there=s no
22 finding of a non-inherent adverse consequences from this
23 particular use --

24 MR. LEEGER: Then it would be allowed.

25 MR. GROSSMAN: -- then there=s no basis for

1 denying it.

2 MR. LEEGER: Denying it.

3 MR. GROSSMAN: So there has to be -- so the
4 question of -- the Council has already made a decision that
5 cell towers, in the Zoning Ordinance, that cell towers are
6 permitted in this residential zone by special exception so
7 the question is whether or not there is something about this
8 particular use that is, that has non-inherent adverse
9 effects either because of the particular aspects of the use
10 or the site conditions or whatever it may be.

11 MR. LEEGER: Thank you.

12 MR. GROSSMAN: Sure.

13 MR. LEEGER: Has this been sent out to everybody?

14 MR. DONOHUE: Yes.

15 MR. LEEGER: Because I=d like to get a copy of
16 this if possible. I have not received it.

17 MR. DONOHUE: That=s for you.

18 MR. LEEGER: Okay.

19 MR. DONOHUE: And I have additional copies if --

20 MR. LEEGER: Thank you.

21 MR. GROSSMAN: All right. Okay. Then we=re ready
22 to move forward with opening statements. Mr. Donohue, do
23 you have an opening statement you wish to make?

24 MR. DONOHUE: Mr. Chairman, I think we=ve had
25 plenty of preliminaries so I think I=d like to get right to

1 our first witness, Mr. Chaney.

2 MR. GROSSMAN: Let me give Mr. Leeger an
3 opportunity if he wants to make an opening statement before
4 now or do you want to wait until --

5 MR. LEEGER: I=d like to wait.

6 MR. GROSSMAN: Okay.

7 MR. LEEGER: Thank you.

8 MR. GROSSMAN: All right then. You may call your
9 first witness.

10 MR. DONOHUE: Thank you, Mr. Chairman. Calling
11 Mr. Matt Chaney seated to my left.

12 MR. GROSSMAN: All right. Mr. Chaney, would you
13 state your full name and address, your work address if you
14 prefer.

15 MR. CHANEY: Matt, Matthew L. Chaney. I work at
16 7380 Coca Cola Avenue, Suite 106 in Hanover, Maryland.

17 MR. GROSSMAN: Would you raise your right hand,
18 please.

19 (Witness sworn.)

20 MR. GROSSMAN: All right. You may proceed, Mr.
21 Donohue.

22 MR. DONOHUE: Thank you, sir.

23 DIRECT EXAMINATION

24 BY MR. DONOHUE:

25 Q Mr. Chaney.

1 A Good morning.

2 Q Good morning. Would you please explain to the
3 Chair what your role is today? What is your task before the
4 Hearing Examiner?

5 A I=m a zoning project manager with Network Building
6 & Consulting who is contracted with T-Mobile to do the site
7 development tasks. I=ve been on the T-Mobile project now
8 since 2005. And my responsibilities and my team=s
9 responsibilities are we=re given a search area that has, you
10 know, a coverage gap that needs to be filled and we go find
11 an appropriate solution.

12 Q Before we get to the particulars of this one, are
13 you familiar with the process in Montgomery County for a
14 special exception?

15 A Yes, I am.

16 Q Have you testified before the Hearing Examiner and
17 the Board of Appeals on special exception matters?

18 A Yes, I have.

19 Q More than a couple times?

20 A Yeah. That is correct.

21 Q All right. So when I ask you questions about
22 residential setbacks, the questions earlier about ingress,
23 egress, the questions about the Tower Committee, you=re
24 going to be familiar with those things.

25 A Yes, sir.

1 MR. GROSSMAN: Are you attempting to qualify this
2 witness as an expert?

3 MR. DONOHUE: No, sir. I'm trying to set a stage
4 so you know what to expect.

5 MR. GROSSMAN: All right. All right.

6 BY MR. DONOHUE:

7 Q All right. So tell us what is the, in layman=s
8 terms or maybe perhaps by overview, tell us what=s proposed
9 here today. What=s contemplated by the special exception?

10 A This is proposed facility would be a 115-foot
11 unipole. And by unipole, it=s a monopole where all of the
12 antennas and associated equipment are located inside the
13 pole so there won=t be any arms sticking out or anything
14 like that. Everything is incased within the pole. It looks
15 very much like a flagpole sort of thing just without the
16 flag, without the finial.

17 That 115-foot unipole is proposed near the rear of
18 the subject property owned by the Gibsons. That pole will
19 be located within a 40 by 42-foot equipment compound. All
20 equipment cabinets will be located inside that compound on a
21 steel platform. We=re proposing three equipment cabinets in
22 this case. The equipment compound will be surrounded with
23 an eight-foot board-on-board fence.

24 Q Well, you=re skipping all the way down. I don=t
25 have anymore questions for you. You used the term --

1 MR. GROSSMAN: Hold on, since he raised the
2 question about equipment cabinets, are all of the equipment
3 cabinets to be inside of that board-on-board fence?

4 THE WITNESS: Yes, sir.

5 MR. GROSSMAN: All right. Nothing will be on the
6 outside.

7 THE WITNESS: No, sir.

8 MR. GROSSMAN: Okay.

9 BY MR. DONOHUE:

10 Q You used the term unipole to describe this support
11 structure and I think you can probably amplify on that.
12 That=s a term of art, industry term of art.

13 A Correct.

14 Q And is that a design consideration, the unipole?

15 A Yes. Yes. The purpose of a unipole is to
16 minimize visual impact. It, that -- you can paint it
17 whatever color you like, whatever blends into the
18 surroundings. In this case, a light brown, a dull gray,
19 something like that to attempt to match the wooded
20 surroundings.

21 Q And I believe you explained that the antenna is
22 within the skin of the unipole?

23 A Correct.

24 Q And the coaxial cable that connects the antenna to
25 ground equipment are also within the --

1 A Correct. All the cables run inside the pole down,
2 they run to the base where they come out and attach to the
3 cabinets there. That, the opening is below the fence line.

4 Q And the purpose of the facility, we know that it=s
5 a unipole, we know the compound, the shape, et cetera, I=m
6 going to ask you more about the property itself, but what=s,
7 by overview, what=s the purpose of the facility? What=s it
8 intended to do?

9 A Well, the purpose of this facility is to cover a
10 coverage gap that we have in this area Basically, the
11 coverage gap here is, is in vehicle traffic along Briggs
12 Chaney Road as well as throughout this neighborhood and
13 also, to increase in-building coverage to this neighborhood.

14 Q And in order to, in order for the County to
15 explore the issue of coverage, T-Mobile=s coverage
16 challenges, there=s a process that precedes the hearing
17 today, is that correct?

18 A Correct.

19 Q And can you give us a summary of what that process
20 looks like?

21 A It begins by going through the Tower Committee
22 process where you receive a recommendation. In this case,
23 because it=s a special exception, we are also required to go
24 through the NRI/FSD process and also --

25 MR. GROSSMAN: Just so that everybody understands

1 what you mean, NRI/FSD stands for Natural Resources
2 Inventory/Forest Stand Delineation. It=s a required filing
3 by the applicant when they file for special exception. They
4 have to delineate in some detail exactly what is located,
5 all the natural resources and forest that=s located on the
6 property in question and they submit it to first, it goes to
7 the Board of Appeals and then it ultimately goes to the
8 Technical Staff of the Maryland-National Capital Park and
9 Planning Commission, and we almost always just call them the
10 Technical Staff. And so that=s part of their review process
11 is this NRI/FSD. Go ahead.

12 BY MR. DONOHUE:

13 Q What I want you to get to I suppose is the Tower
14 Committee. What=s the role of the TFCG or Tower Committee?

15 A The Tower Committee is there to evaluate our need
16 and ensure that we are proposing a facility that is needed.

17 Q In addressing that need, and I know Mr. Jews is
18 going to get into more of the nuts and bolts of that, but in
19 addressing those needs on behalf of T-Mobile, what do you
20 look for by way of a site? What do you, what are you tasked
21 with when you=re out in the search ring.

22 A When we first get the search ring, obviously, the
23 first thing we look for are existing tall structures. If
24 there=s an existing monopole there, if there=s a water tank,
25 if there=s a tall building, those are the first places that

1 we would go to obviously. In this case, there unfortunately
2 were not any tall structures in this area that would, that
3 would accommodate this RF need and when there isn't a tall
4 structure for us to co-locate to, then we have to begin
5 looking for properties in which to build a new facility such
6 as this.

7 Q So you gave us a quick explanation of the property
8 but let's go into that a little bit. You're familiar with
9 the Gibson property, correct?

10 A Correct.

11 Q Do you know the size of the parcel?

12 A It is, I believe it's on the site plan. I believe
13 it's 3.8 acres but --

14 Q Would you, could you characterize the topography
15 and screening of the site?

16 A The -- it slopes. This property slopes from the
17 front to the back. What I'm calling the front, out by Cabin
18 Creek Drive, the rear being back in the woods. It slopes
19 downhill from the front to the back. It is wooded. It has
20 some trees on this parcel. There are a lot of trees that
21 surround the parcel on adjacent properties.

22 MR. GROSSMAN: Can you face that, Mr. Donohue, so
23 that I can see it also? Just so both -- okay. You don't
24 have to angle it towards me. Just make it straight out so
25 then everybody can see as well. Okay. And is this an

1 exhibit that is already in the record?

2 MR. DONOHUE: It is. It=s been in a couple times.
3 And I=ll give you an exhibit number. I=m going to ask Mr.
4 Chaney to tell us what that is and I can give you your
5 exhibit number.

6 BY MR. DONOHUE:

7 Q Mr. Chaney, I put a board up there on the easel.
8 Would you explain to the Chair what that is, what I=m
9 showing here?

10 A That is an aerial map that we took off of Google
11 Maps that shows the subject property and a number of
12 surrounding properties.

13 Q Did you want to go over there? It might be
14 easier. Mr. Chaney, will you show us approximately where
15 the proposed compound is on the Gibson parcel? Well, first
16 show us the Gibson property.

17 MR. GROSSMAN: Well, actually, first, let=s
18 identify what the exhibit is.

19 THE WITNESS: It=s an aerial photo. It=s a Google
20 aerial photo and I=m going to give you a number here in just
21 a minute, Mr. Chair.

22 MR. GROSSMAN: Okay. Just so the record, explain
23 to the audience that we try here, since there is a written
24 record of everything, sometimes when the witnesses point to
25 something, we have to clarify for the written record exactly

1 what they are pointing to and one of the, part of that
2 process is to identify the exhibit number of whatever it is
3 they=re pointing to. So right now, Mr. Donohue is looking
4 for the exhibit list to tell me what exhibit this particular
5 Google aerial photo is from.

6 MR. DONOHUE: Let=s do it this way, Mr. Chair.
7 Let me submit it as an additional enlarged exhibit of a
8 previously submitted document.

9 MR. GROSSMAN: All right. Fair enough. We=ll
10 call that Exhibit 63, and that is, it=s a Google aerial --

11 BY MR. DONOHUE:

12 Q Can you give us the date in the chair, in the
13 corner?

14 A Yes. It says imagery date 8/28/2010.

15 MR. GROSSMAN: All right. Aerial photo dated
16 8/28/2010 of, I take it it=s the area around the site. Is
17 that --

18 THE WITNESS: Correct.

19 MR. GROSSMAN: All right.

20 (Exhibit No. 63 was marked for
21 identification.)

22 MR. LEEGER: Point of information. Could it be
23 noted that this is an enlarged photograph of the area, we=re
24 showing a very specific area versus the original one that
25 was presented?

1 MR. GROSSMAN: Yes. It is. Well --

2 MR. LEEGER: Okay.

3 MR. GROSSMAN: It=s, what would you say is the
4 size of that exhibit? It looks like it=s about 18 by, 18
5 inches by two feet, by 24.

6 THE WITNESS: It=s probably a little, 18 by 30.

7 MR. GROSSMAN: All right.

8 THE WITNESS: Maybe somewhere in there.

9 MR. GROSSMAN: And does that photograph accurately
10 depict the site as it exists today?

11 THE WITNESS: Yes, sir.

12 BY MR. DONOHUE:

13 Q Mr. Chaney, would you give us in broad --

14 MR. GROSSMAN: Can you mark on it Exhibit 63
15 somewhere so we don=t lose track of it and make sure, make
16 sure that it stays here. All the exhibits will stay here.
17 Yes, sir?

18 MR. ALBERT: Mr. Chair, will we have an
19 opportunity to cross the witness?

20 MR. GROSSMAN: Yes, sir. Absolutely.

21 MR. ALBERT: All right. Thank you.

22 BY MR. DONOHUE:

23 Q Mr. Chaney.

24 A Yes, sir.

25 Q What are we looking at here? What is this

1 enlarged photograph, this aerial photograph?

2 A Well, this is an aerial photograph of the aerial,
3 of the subject parcel. The subject parcel is located near
4 the middle of the aerial photograph. It=s got the red star
5 and the label of WAN, 7 WAN 291I. The -- and then it shows
6 many parcels surrounding it. The -- I=m sorry. I=ll let
7 you --

8 Q Okay. So approximately the, show us the
9 approximate location of the proposed compound and pole.

10 A The approximate location is by the red marker
11 here. It is located toward the rear of the parcel, behind
12 the barns that are at the middle of the parcel.

13 MR. GROSSMAN: And the identification for the
14 particular proposed tower is 7 WAN 291I?

15 THE WITNESS: WAN 291I actually.

16 MR. GROSSMAN: I see.

17 THE WITNESS: Yeah. It=s unfortunate that they
18 don=t set it off differently.

19 MR. GROSSMAN: So it=s 7 WAN 291I.

20 THE WITNESS: Correct.

21 MR. GROSSMAN: All right.

22 BY MR. DONOHUE:

23 Q So I asked you to explain or to give me your
24 impression of the surrounding topography and also, tree
25 cover. Can you, looking at that photograph, can you tell us

1 what you see surrounding the property?

2 A Correct. Surrounding the property, there=s a
3 large amount of woods to the west here. Also behind the
4 parcel and to the east. And there is a line of trees that
5 runs at the front of their property between their property
6 and Cabin Creek Drive. And as far as topography, the, as I
7 mentioned earlier, the site slopes from, slopes downhill
8 from where the house is down towards, back towards where the
9 site is. The, many of the neighborhood to the north and
10 northeast and east is at a higher elevation than this
11 proposed location.

12 MR. GROSSMAN: I take it up north is up on this
13 photograph?

14 THE WITNESS: Correct, yes.

15 MR. GROSSMAN: Okay.

16 THE WITNESS: That=s up in the corner.

17 BY MR. DONOHUE:

18 Q Mr. Chaney, perhaps the site plan might be easier
19 for these next couple of questions here.

20 A Uh-huh.

21 MR. DONOHUE: Mr. Chair, your Exhibit 48.

22 MR. GROSSMAN: 48 or 42?

23 MR. DONOHUE: 42, the site plan.

24 MR. GROSSMAN: Okay.

25 BY MR. DONOHUE:

1 Q 42. Let=s go with 42(b), the title sheet.

2 A Did you want the title sheet?

3 Q I want you to give us the size of the parcel if
4 you can.

5 A The size of the parcel on page Z1 here, I=m sorry.
6 It wasn=t 3.8. It=s, the size of the parcel is 5.88 acres.

7 MR. GROSSMAN: That=s on Exhibit 42(c).

8 THE WITNESS: 42(c) to the left under site plan
9 notes, No. 3.

10 MR. GROSSMAN: Okay.

11 BY MR. DONOHUE:

12 Q So then moving down from the aerial photo now to
13 the site plan, all right, will you show us where the
14 compound is and again, remind us the size and orientation of
15 the compound?

16 A Yes. Again, the compound is toward the rear of
17 the parcel. It is located sort of bottom middle of this
18 page of the site plan. It is again, a 40-foot by 42-foot
19 compound located down the hill here behind the barns which
20 are located at the middle of the parcel. The site is
21 accessed at an access, an existing access road that we
22 extend out to get to where the compound is.

23 Q Okay.

24 MR. GROSSMAN: The existing access road is the one
25 that=s along the property line, correct?

1 THE WITNESS: Correct. Correct.

2 MR. GROSSMAN: The extension is an east-west --

3 THE WITNESS: Correct.

4 MR. GROSSMAN: -- extension to the, to the
5 location of the proposed cell tower.

6 THE WITNESS: Yes, sir.

7 BY MR. DONOHUE:

8 Q Mr. Chaney, in earlier discussion on preliminary
9 matters, the Chair asked about the relocation of the
10 compound.

11 A Correct.

12 Q And you're familiar with that relocation?

13 A Correct.

14 Q Do you know what prompted that change by T-Mobile?

15 A That was prompted by a request from M-NCPPC during
16 the review of the water quality plan.

17 Q All right.

18 A There's a stream buffer that is over in this, the
19 bottom right portion of the property.

20 Q Are you talking southeast? Is that fair?

21 A Yes. I'm sorry. It's basically directly south
22 given how the property is oriented. And that, they
23 requested that we move the site to get the compound entirely
24 outside of that stream buffer area.

25 Q This is Technical Staff at Park and Planning?

1 A Correct.

2 Q So the change to reorient or relocate the compound
3 was at the request of Technical Staff?

4 A That is correct.

5 Q Can you, in general terms, can you show us the
6 move that was, contemplate the move that was made here, the
7 change?

8 A Well, it was shifted, again, it was shifted sort
9 of laterally toward the center of the property.

10 Q So is it now outside of a sensitive or --

11 A That=s correct.

12 Q -- environmentally protected area?

13 A Right.

14 Q There are a number of lines drawn from the
15 compound and also from the pole shown on the site plan,
16 correct?

17 A Correct.

18 Q And those lines are called out on a schedule on
19 the left corner of the site plan?

20 A Correct.

21 Q And what=s the meant to show?

22 A They=re to show setbacks from various property
23 lines, adjacent dwellings, et cetera.

24 Q What are the setback requirements in a residential
25 zone in Montgomery County?

1 A In this zone, the pole is required to be set back
2 a distance of one foot for every foot of height from the,
3 all surrounding property lines and then as well, we=re
4 required to have a 300-foot setback from offsite dwellings.

5 Q So two sets of setback requirements.

6 A Correct.

7 Q And the height of the facility, as you told us,
8 was 115 feet, is that correct?

9 A Correct.

10 Q So the setback for the one-to-one setback would
11 also be --

12 A 115 feet.

13 Q Could you give us, reading from the schedule
14 there, could you give us what the setbacks as proposed?

15 A Yes. It=s shown here on the, on the schedule on
16 the far left side on page Z1. The front yard setback, which
17 is up to the northeast, is 570.7 feet. The rear yard
18 setback, which is to the southwest, is 158 feet. The side
19 yard setback to the northwest is 230.7 feet and the side
20 yard setback to the southeast is 140.4. And then as far as
21 the residential setback, the offsite --

22 MR. GROSSMAN: Before you get to that --

23 THE WITNESS: I=m sorry.

24 MR. GROSSMAN: These setbacks that you=re reading
25 off, are they setbacks from the cell tower location itself,

1 not from the compound.

2 THE WITNESS: Correct. They are from the tower.

3 MR. DONOHUE: Original location.

4 MR. GROSSMAN: This is, the location you're
5 referring to is from proposed location, correct, the current
6 proposed location?

7 THE WITNESS: I want to verify to make sure I'm
8 100 percent correct here. These are the setbacks for the
9 currently proposed location.

10 MR. GROSSMAN: And I'd ask you not to call out
11 from the audience because we can't record that appropriately
12 and the, and things but if you have questions in the course
13 of it, you can raise your hand and we can call on you.
14 Okay.

15 BY MR. DONOHUE:

16 Q Mr. Chaney, is it your testimony that the
17 facility, as proposed, meets the one-to-one setback
18 requirement from property lines?

19 A Yes, sir.

20 Q It meets it minimally, more than meets it or
21 just --

22 A More than meets every minimum requirement.

23 Q You also explained that there's a 300-foot setback
24 requirement from residential, from offsite residential,
25 correct?

1 A Correct.

2 Q And does the facility, as proposed, meet the 300-
3 foot setback requirement?

4 A Yes. It more than meets that. The closest
5 offsite dwelling is 377.5 feet.

6 Q What=s the orientation of that?

7 A That is the house owned by Mr. Caplan which is to
8 the southeast of the subject property.

9 Q And the Chair asked you about the line being drawn
10 from the pole, is that correct?

11 A Uh-huh.

12 Q And that=s in accordance with Code?

13 A Correct.

14 Q Very good. You have other site plans there, Mr.
15 Chaney. Do you want to flip to the next one?

16 A Sure.

17 MR. GROSSMAN: This would be Exhibit 42(d) as in
18 dog.

19 BY MR. DONOHUE:

20 Q What are we looking at here, Mr. Chaney? What=s
21 it called and what are we looking at?

22 A This is, the title of the page is Enlarged Site
23 Survey and it=s a closer up view of the compound and the
24 extended access road.

25 Q And the size again of the compound?

1 A 40 feet by 42 feet.

2 Q And the darkened rectangle in the upper left
3 corner of the compound, what is that?

4 A That is the, our proposed equipment platform.

5 Q Is it your testimony that the equipment is located
6 inside the compound?

7 A That is correct.

8 Q And what surrounds the compound?

9 A The compound is surrounded by an eight-foot board-
10 on-board fence.

11 Q I=m sorry. A board-on-board?

12 A Yeah. Eight foot wooden board-on-board fence. So
13 it=s eight feet high. The wood boards that are a typical
14 subdivision board-on-board.

15 Q So it=s a screen fence.

16 A Correct.

17 Q So would the screen fence hide the visibility of
18 the cabinets?

19 A That=s correct.

20 Q And the pole itself is located approximately in
21 the middle of the compound, is that correct?

22 A Yes. Just slightly, slightly north of the middle
23 but, yes. Very close to the middle.

24 Q Do you have an elevation of the pole?

25 A Yes. That is on the next page. That would be

1 (e), 42(e).

2 MR. GROSSMAN: Before you leave 42(d), you show
3 other areas within that compound. What are those other
4 areas?

5 THE WITNESS: The more lightly shaded areas are
6 proposed areas for future co-locators.

7 MR. GROSSMAN: All right.

8 THE WITNESS: Again, as we're required to have
9 space on the tower, in this case, we're also showing the
10 space in the compound for those future carriers.

11 MR. GROSSMAN: Okay. So two other future
12 carriers.

13 THE WITNESS: Correct.

14 MR. GROSSMAN: All right. Thank you. And now
15 we're looking at 42(e).

16 THE WITNESS: Correct.

17 BY MR. DONOHUE:

18 Q This is styled as the compound layout and unipole
19 elevation, correct?

20 A Correct.

21 Q So the screen to the left is a further amplified
22 or further enlarged compound detail?

23 A Correct.

24 Q Again showing the proposed T-Mobile and additional
25 proposed co-locators?

1 A That is correct.

2 Q What I want to get to is the depiction on the
3 right which is styled as unipole elevation.

4 A Correct.

5 Q And I believe you explained that the unipole is a
6 designed, it=s a designed technique, is that correct?

7 A Correct. Yeah.

8 Q How would you contrast this unipole with a
9 standard monopole?

10 A A standard monopole is going to have the antennas
11 located outside the pole. They=re going to be mounted on
12 either some sort of platform or some sort of what we call
13 T-arms which is just a pipe that comes out with the antenna
14 mounted on the outside of that. Those stick out generally
15 about five feet in either direction. In this case, all of
16 those antennas are located within the pole.

17 Q All right. And the ground equipment shown on
18 there, I believe you explained it=s located on a steel
19 platform, a steel pier?

20 A That is correct.

21 Q And what=s the reason for that?

22 A Again, for M-NCPPC request due to the fact that
23 we=re in the environmental overlay zone.

24 Q So the ground equipment is up off of the ground,
25 correct?

1 A Correct.

2 Q Is the board fence shown there in the lower right
3 corner?

4 A It is, yes. It=s got a cut-away so that you can
5 see inside but, yes, there is a depiction of the board-on-
6 board fence.

7 Q All right. Do you have other site plans you want
8 to go through beyond Z3?

9 A No. There, I don=t believe there=s anything.
10 It=s just, Z4 is a further blown-up version of the equipment
11 platform and the antennas and cabinets.

12 Q I=m going to ask you about other sites that T-
13 Mobile had considered. I don=t know if you have any
14 graphics for that if you want to return to your seat.

15 A Okay.

16 Q I believe you explained that T-Mobile, in your
17 capacity in the project for T-Mobile, you would be searching
18 for other tall structures for co-location opportunities, is
19 that correct?

20 A That is correct.

21 Q Would you explain to the Chair what you, where you
22 searched and what you --

23 A In this case --

24 Q Yes. Explain what the area looks like. You
25 called it a search area I think.

1 A Yes. There is, there is a very large coverage gap
2 here. Basically --

3 MR. GROSSMAN: You have to identify the exhibit
4 you=re looking at.

5 THE WITNESS: Oh, I=m sorry. This is the
6 propagation map that is labeled --

7 MR. GROSSMAN: Okay. Which exhibit is that?

8 THE WITNESS: That=s a good question.

9 MR. DONOHUE: Let=s do as we did before, Mr.
10 Chairman. This is an enlarged version of the submitted RF
11 propagation maps.

12 MR. GROSSMAN: That=s the first question though.
13 Where is the --

14 MR. DONOHUE: It was submitted in the original
15 application so --

16 MR. GROSSMAN: Well, this is the one that was
17 originally submitted or a propagation map?

18 MR. DONOHUE: It is contained in your Exhibit 10,
19 10(a) through (d).

20 MR. GROSSMAN: All right. I=m looking at 10(a),
21 (d). That particular map is no tin 10(a) through (d).

22 MR. DONOHUE: I have in my exhibit list, I have
23 propagation map shown as 10(a) through (d), correct?

24 MR. GROSSMAN: Yes, but those are not the, that=s
25 not what he has up on the board. What=s in 10(a) through

1 (d) I guess was the comparison of the different heights of
2 different towers but does not include that propagation map.
3 That was one what I mentioned early on, you didn't file
4 that.

5 Now, there was a copy attached to the, that was
6 electronically submitted, and this is (a) through (d).
7 You'll see that all of them are all these other ones.
8 They're not what your, what you have posted. I printed off
9 my own reference the electronic submission. We also had a
10 black and white of this I believe in the file but we do need
11 to have your formal exhibit of these propagation maps in the
12 file.

13 MR. DONOHUE: We'll do two things, Mr. Chairman.
14 I'll submit both electronically and we'll leave these boards
15 here. We'll also have the next witness explain when these
16 were prepared, what they were prepared for and how they were
17 done.

18 MR. GROSSMAN: Let's mark that as Exhibit 64, and
19 that is --

20 MR. LEEGER: Didn't we already have 64 or did I
21 make a mistake?

22 MR. GROSSMAN: Did I?

23 MR. DONOHUE: I think the aerial was 63.

24 MR. LEEGER: Oh, 63, okay.

25 MR. GROSSMAN: 64 would be existing on-air

1 coverage map.

2 MR. DONOHUE: Correct.

3 (Exhibit No. 64 was marked for
4 identification.)

5 MR. DONOHUE: And would you like me to -- I=ve got
6 the coverage map with this site, with the proposed site
7 turned on. Do you want me to mark that as 65 --

8 MR. GROSSMAN: Yes.

9 THE WITNESS: -- so they=re back-to-back?

10 (Exhibit No. 65 was marked for
11 identification.)

12 MR. LEEGER: What is the date of this?

13 THE WITNESS: There is no, there=s no date on, on
14 these.

15 MR. DONOHUE: We can ask the next witness when
16 they were prepared and what they were used. I want Mr.
17 Chaney to explain the search ring. I=m really just using
18 this as a prop for him.

19 MR. GROSSMAN: So explain what 64 is.

20 THE WITNESS: Exhibit 64 is our current existing
21 on-air coverage. It=s a propagation map showing our current
22 existing on-air coverage. And basically, this shows where
23 the coverage gap in this area is. In this case, the
24 application is to solve the portion of the coverage gap that
25 is bordered, essentially, by Spencerville Road to the north,

1 Old Columbia to the east and Briggs Chaney to the south.

2 MR. GROSSMAN: And explain what the colors --

3 THE WITNESS: Oh, I'm sorry. There are three
4 colors, green, blue and yellow. The green demonstrates
5 what=s called in-building coverage, the blue demonstrates
6 what=s called in-vehicle coverage and the yellow
7 demonstrates what is called on-street coverage. And in-
8 building coverage essentially means you should reliably be
9 able to make a phone call inside a building, a normal
10 residential building. In-vehicle means your building
11 coverage is probably going to be fairly spotty but you
12 should be able to generally make calls in your car. And on-
13 street means you=re probably going to have problems
14 connecting in your car and you really need to be standing
15 outside to have any sort of coverage.

16 MR. GROSSMAN: I should mention that I notice that
17 the Technical Staff noticed that the color scheme changes,
18 is different in Exhibits 10(a) through (d). Whereas here,
19 the green is in-building and the blue is in-vehicle, that is
20 reversed in Exhibits 10(a) through (d). Might I suggest
21 that in the future that not happen. I mean, all the ones
22 I=ve seen previously, the green has always been the in-
23 building and the blue has always been in-vehicle so for
24 clarity, in the future, we should keep that color scheme.

25 MR. DONOHUE: And let me also point out that the

1 next witness is really the RF expert.

2 MR. GROSSMAN: I understand.

3 MR. DONOHUE: So we're taking Mr. Chaney down the
4 road here.

5 MR. GROSSMAN: I understand.

6 MR. DONOHUE: It's a little bit out of his scope.

7 BY MR. DONOHUE:

8 Q So with that said, and I promise we'll get back to
9 more detailed questions on RF propagation and in-building,
10 on-street, et cetera but, Mr. Chaney, there are icons shown
11 on various sites that surround Gibson or WAN 211, correct?

12 A That is correct. Those are our adjacent sites.
13 Those are existing T-Mobile sites.

14 MR. GROSSMAN: You said WAN 211. It's 291.

15 THE WITNESS: WAN 291.

16 MR. GROSSMAN: 291I.

17 MR. DONOHUE: Yes. WAN 291I. Let's call it
18 Gibson.

19 THE WITNESS: There you go.

20 BY MR. DONOHUE:

21 Q So located in the yellow, right center of the RF
22 propagation maps, we're showing WAN 291I and surrounding it,
23 for example, to the northeast, you have another icon.
24 You're showing green, right?

25 A Correct. That, it's the site that's labeled

1 southern WAN 005A.

2 Q And is that an on-air T-Mobile site?

3 A That is an on-air T-Mobile site at an existing
4 monopole that=s located in a commercial area by Old Columbia
5 and Spencerville Road.

6 Q Moving almost due south of that site, you have
7 another on-air facility, is that correct?

8 A Correct. That=s 7 WAN 058A.

9 Q And similarly moving to the south?

10 A That=s 7 WAN 285K.

11 Q So that the challenge for site acquisition, the
12 challenge was to address the area or portion of the area in
13 yellow, is that --

14 A Correct.

15 Q In board terms?

16 A Correct.

17 Q The facilities that surround Gibson, you=ve
18 explained that they=re on-air. Green indicates that they=re
19 on-air, is that correct?

20 A That is correct.

21 Q And are those co-location sites?

22 A Yes. The vast majority of them are. To the
23 north, WAN 368 is a structure at Spencerville Methodist
24 Church that we did build. Other than that, WAN 005 was a
25 co-location to an existing monopole, WAN 058 was a co-

1 location to an existing rooftop, WAN 19 is --

2 MR. GROSSMAN: Well, is it necessary for him to
3 describe what each of these --

4 MR. DONOHUE: No.

5 MR. GROSSMAN: Okay.

6 MR. DONOHUE: He=s trying to characterize the
7 adjacent site. It=s all right.

8 THE WITNESS: Correct. And we=ve got a church
9 steeple co-location and --

10 MR. GROSSMAN: I don=t want to limit you if you
11 feel you need it in the record.

12 MR. DONOHUE: That=s fine.

13 MR. GROSSMAN: Okay.

14 BY MR. DONOHUE:

15 Q So, Mr. Chaney, in searching, or explain to the
16 Chair, explain to the room what=s the search area that you
17 were tasked with providing.

18 A The search area for this particular ring as I
19 mentioned, again, basically, it=s to eliminate the coverage,
20 the in-vehicle coverage gap along Briggs Chaney Road and the
21 coverage gap to the residential area essentially north of
22 Briggs Chaney Road, west of Old Columbia and south of
23 Spencerville Road.

24 Q And within that search ring, you were unable to
25 find a tall structure for co-location, is that correct?

1 A That, yes. There were no tall structures for co-
2 location in that area that would serve this objective.

3 Q Were there other properties that were contemplated
4 for new construction, for roll-in construction as is the
5 case here?

6 A There were. And actually, I should say it=s not,
7 it=s not that there are no structures. There was a church
8 at Old Columbia, Resurrection Church, at Old Columbia and
9 Greencastle.

10 MR. LEEGER: Can you point out where the Catholic
11 Resurrection Church is, please? Is that possible?

12 MR. DONOHUE: You=ll get a chance to question him.
13 I understand.

14 MR. LEEGER: Oh, okay.

15 MR. DONOHUE: I=ll ask him.

16 MR. LEEGER: All right.

17 BY MR. DONOHUE:

18 Q So we=re talking about alternatives now, right?

19 A Correct.

20 Q And you mentioned the Catholic church. Would you
21 show us where that is, roughly where it is?

22 A Right. And that -- I=m right here. Basically, it
23 is where the green from WAN 005 ends and turns into blue as
24 you come down along Old Columbia.

25 MR. GROSSMAN: So it=s due east of --

1 THE WITNESS: Yes.

2 MR. GROSSMAN: -- the present proposed location
3 for 7 WAN 291I.

4 THE WITNESS: Correct.

5 BY MR. DONOHUE:

6 Q And how would you characterize the church
7 property?

8 A It=s a two-story, basically, because it=s on a
9 hill, it=s a two-story building on one side that drops, has
10 a basement but is exposed on it. So it=s two stories on one
11 side, three stories on another with a bell tower out in
12 front and from the high side and bell tower, the tallest
13 part of that structure is approximately 25 to 30 feet.

14 Q Is the Resurrection Church that you=re talking
15 about here, is that inside of what you=re calling the search
16 ring?

17 A No. It=s to the edge of the search ring. It is,
18 it=s actually outside because it falls in that area of
19 green. Given, give its height, RF rejected that as a
20 possibility.

21 Q Were there other properties, were there properties
22 within the search ring that were considered favorably by the
23 RF engineers?

24 A There were. There was -- we searched a number of
25 properties throughout the area. The first one that was not

1 actually favored by RF was the American Landscaping Property
2 which is along Peach Orchard Road, sort of north of Rowland
3 Avenue here toward the top middle of Exhibit 64.

4 MR. GROSSMAN: You said not favored by RF. Who is
5 RF?

6 THE WITNESS: Our radio frequency engineers.
7 It=s, it was a site that is only .4, .5 miles away from WAN
8 368B. In addition, the visual impact there, when we
9 evaluated it, there was no good place to put a pole where it
10 couldn=t be seen by several houses.

11 BY MR. DONOHUE:

12 Q So the property didn=t lend itself for a
13 structure.

14 A No. The screening on that property is not as good
15 as some other properties in the area.

16 Q All right.

17 A Other than that, we, you know, we looked down
18 Peach Orchard Road. We looked back, I know there was a
19 property we evaluated on Valley Vista Drive and then we
20 evaluated this area. We did look at Mr. Caplan=s property,
21 which is next door to the subject property, also. So we
22 evaluated a number of properties looking for essentially the
23 best one that worked from both a network perspective and a
24 visual impact perspective.

25 Q What are the attributes of the Gibson property

1 that made it a viable candidate, a good candidate in your
2 mind?

3 A The exceptional tree screening at Gibson makes it
4 an exceptional candidate. It=s very difficult in this sort
5 of area to find a location that has as much tree screening
6 as this one does. The, it also, given that this area falls
7 in the Upper Paint Branch Environmental Overlay Zone, given
8 all the restrictions that that imposes, finding a site that
9 has minimal visual impact and can meet the requirements of
10 the NRI/FSD process of and water quality plan process makes,
11 made this the best site in the area.

12 Q I=m going to ask you about the photos, photographs
13 and photo simulations that were done in January.

14 A Okay.

15 Q So unless you have other large exhibits you want
16 to show us.

17 A Okay.

18 Q You can leave that up there.

19 MR. GROSSMAN: Did you mark, you said you have
20 Exhibit 65.

21 MR. HUDSON: Mr. Grossman.

22 MR. GROSSMAN: On second, sir. 65 is the --

23 THE WITNESS: Yes. I marked 65 as the coverage
24 with the proposed site turned on.

25 MR. GROSSMAN: Okay.

1 THE WITNESS: I'm sure Mr. Jews will probably use
2 that.

3 MR. GROSSMAN: So that will be map of the coverage
4 with proposed cell tower.

5 THE WITNESS: Correct.

6 MR. GROSSMAN: Okay. Yes, sir.

7 MR. HUDSON: Just a question.

8 MR. GROSSMAN: Just identify yourself.

9 MR. HUDSON: McKinley Hudson.

10 MR. GROSSMAN: All right. Mr. Hudson, you're
11 going to get an opportunity to ask questions of the witness.

12 MR. HUDSON: This is for my information only.

13 MR. GROSSMAN: All right. Yes, sir.

14 MR. HUDSON: The towers that seem to form a
15 perimeter around the area of coverage that appears to be not
16 within whatever the specs they have, are all those towers at
17 heights bigger than 200-foot or less than 200-foot?

18 MR. DONOHUE: Well, that's a great cross-
19 examination question.

20 MR. GROSSMAN: Right. Really, that's that kind of
21 question.

22 MR. HUDSON: Oh, okay.

23 MR. GROSSMAN: You should wait to -- but go ahead
24 and answer the question if you can at this point.

25 THE WITNESS: They -- none of these structures are

1 above 200 feet.

2 MR. GROSSMAN: Okay. All right.

3 BY MR. DONOHUE:

4 Q Mr. Chaney, I explained to the Chair that we
5 conducted a community meeting and balloon fly in January.

6 A That is correct.

7 Q Good. I'm glad because I explained that.

8 A You explained that, right.

9 Q I'm not a lawyer yet. The photographs that you're
10 going to talk to us about here, those were produced in
11 conjunction with that balloon fly, is that correct?

12 A Correct.

13 Q Tell us, in general, tell us what a balloon test
14 is and what the photographs are intended to demonstrate.

15 A The balloon test is where, it's very much like
16 what it sounds. We fly a balloon that is measured off to be
17 the same height as the tower. The balloon is a
18 representative diameter. In this case, it was a three-foot
19 balloon that, it was flown. And the balloon, we usually
20 always make it as visible as we possibly can to see it as
21 well as we can, so this one was bright red. And we go to
22 the proposed location, fly the balloon and drive around and,
23 it gives you a representation of what you will be able to
24 see. It's not perfect but it's the closest representation
25 of what, of where you'll be able to see a structure that was

1 installed there.

2 Q Is the balloon tethered to the ground near the
3 compound location?

4 A Correct. Yes.

5 Q All right. And are there people there onsite to
6 monitor and make sure the balloon stays up in the air?

7 A Right. And we were fortunate when this balloon
8 was being flown that the weather did cooperate with us. If
9 it=s too windy, that can skew where the balloon flies
10 obviously, and we have had to cancel balloon flies in the
11 past and reschedule them. In this case, the weather
12 cooperated and we were able to fly it.

13 Q So the legend that=s shown there in the left
14 panel, three down and three over I guess, what=s that, what
15 are those?

16 A This is a site map showing the locations that the
17 corresponding pictures were taken from.

18 MR. GROSSMAN: All right. So first of all, let=s
19 identify this whole as an exhibit.

20 THE WITNESS: These are the photos that were
21 submitted in response to the community questions. I believe
22 you gave that 61.

23 MR. DONOHUE: These were the mailing dated January
24 18th, 2012.

25 MR. GROSSMAN: So these are the ones attached to

1 Exhibit 61.

2 THE WITNESS: Correct.

3 MR. GROSSMAN: Now, do you have another set of
4 these --

5 MR. DONOHUE: Yes.

6 MR. GROSSMAN: -- for the record that we can mark?

7 MR. DONOHUE: You can mark those and I have an
8 additional set right here.

9 MR. GROSSMAN: All right. Well, why don=t you
10 give me an additional set that=s separate from the mailing
11 per se.

12 MR. DONOHUE: Separate, yeah. Sure.

13 MR. GROSSMAN: So including the map. And we=ll
14 mark that as an exhibit for the record. Thank you, sir.

15 MR. DONOHUE: Will you be giving that a different
16 number or are you going to keep that --

17 MR. GROSSMAN: No. I=m going to give it an
18 additional number here so we, the last one that we, Exhibit
19 61 was the mailing with attachments so this will be actually
20 the exhibit that will be in the file to show this. We also
21 need electronic copies of these of course.

22 MR. DONOHUE: Sure.

23 MR. GROSSMAN: So this will be Exhibit 66 and --

24 THE WITNESS: Would you like that marked on the
25 board or not?

1 MR. GROSSMAN: You don=t have to because we have,
2 we=ll have them here --

3 THE WITNESS: Okay.

4 MR. GROSSMAN: -- for the file. 66, and we=ll say
5 66 itself will be the location map. Location map for --
6 what did you say the date was if this balloon study?

7 MR. DONOHUE: January 14th.

8 MR. GROSSMAN: For January 14, 2012 balloon study.

9 (Exhibit No. 66 was marked for
10 identification.)

11 MR. GROSSMAN: And 66(a) -- I don=t know if these
12 are in any particular order. Is it?

13 MR. DONOHUE: No. Not -- I mean, they=re sort of
14 taken from around.

15 MR. GROSSMAN: All right. Just when I mark this,
16 is it helpful --

17 THE WITNESS: I=ve got them marked in
18 correspondence with letters that I put on here just to make
19 it easier up here.

20 MR. GROSSMAN: Well, perhaps we should start with
21 whatever -- which way are you going around the thing? Are
22 you going to start going clockwise around it? What are you
23 starting from?

24 THE WITNESS: Basically --

25 MR. GROSSMAN: Top left?

1 THE WITNESS: -- it=s A, B, C, D, E, F, G, H.

2 MR. GROSSMAN: Okay.

3 THE WITNESS: Like that.

4 MR. GROSSMAN: All right. Let me --

5 BY MR. DONOHUE:

6 Q You=re going to have to read out what=s indicated
7 in the title there so --

8 A Absolutely.

9 Q -- the Chairman knows what he=s looking at.

10 A Absolutely.

11 MR. GROSSMAN: What is A?

12 THE WITNESS: A is Cabin Creek Drive and Perrywood
13 Drive.

14 BY MR. DONOHUE:

15 Q What=s shown in A while the Chair is looking?

16 A That is a view of toward the facility, and the
17 balloon is not visible from that location.

18 Q And going back to the legend, where is A? Where
19 is the corresponding location for that?

20 A It is the furthest north. Well, it=s one of the
21 two furthest north.

22 Q So it=s north of Gibson looking back, looking
23 south, looking back on the farm.

24 A Correct.

25 MR. GROSSMAN: So this will be Exhibit 66(a) is

1 Cabin --

2 THE WITNESS: Is Cabin Creek and Perrywood.

3 MR. GROSSMAN: -- Cabin Creek and Perrywood.

4 (Exhibit No. 66(a) was marked for
5 identification.)

6 MR. GROSSMAN: All right. And this is looking
7 toward the proposed cell tower location, towards the
8 balloon?

9 THE WITNESS: Correct.

10 MR. GROSSMAN: And it=s not visible?

11 THE WITNESS: Correct.

12 MR. GROSSMAN: Okay. All right.

13 BY MR. DONOHUE:

14 Q And going to B then, Matt. What=s the title on B?

15 A B is Perrywood Drive, and that=s the one that=s
16 east of A. It=s just labeled Perrywood Drive.

17 MR. GROSSMAN: All right. Let me find that one.

18 BY MR. DONOHUE:

19 Q Matt, when these photos were taken, I see the
20 house there in the middle of the frame, where is the
21 photographer standing?

22 A He is standing in a public way. In a public
23 street or a sidewalk.

24 Q Looking back toward the balloon.

25 A Correct.

1 Q All right. Is the balloon visible in that photo?

2 A No, it is not.

3 MR. GROSSMAN: Point to that photo on there. Oh,
4 this one says Friendlywood. Hold on a second. I haven=t
5 located that yet.

6 THE WITNESS: Would it help you --

7 MR. GROSSMAN: Okay. I=ve got it.

8 THE WITNESS: Would it help if I just went through
9 real quick and organized them A, B, C, D for you?

10 MR. GROSSMAN: That would be great. I have 66(b)
11 now. You can organize the rest of them.

12 (Exhibit No. 66(b) was marked for
13 identification.)

14 THE WITNESS: I don=t want to grab your stack.
15 Hand me which ones you want.

16 MR. GROSSMAN: Okay. There you go. You can just
17 mark them 66(c) through whatever number you have.

18 THE WITNESS: Okay.

19 MR. DONOHUE: We=re going to leave that board
20 here, Mr. Chair, so let me know if you need to come back
21 here and look at it.

22 MR. GROSSMAN: Okay. I=ll tell you what, since,
23 why don=t we take a five minute break while he=s marking
24 those and we=ll come back at a quarter to 12 on that clock.

25 (Whereupon, at 11:36 a.m., a brief recess was

1 taken.)

2 (Exhibit Nos. 66(c) through (l) were
3 marked for identification.)

4 MR. GROSSMAN: Okay. I think we=re all marked up
5 to a fare thee well now.

6 MR. DONOHUE: Before you put your pen down.

7 MR. GROSSMAN: Uh-oh.

8 MR. DONOHUE: The Affidavit of Posting.

9 MR. GROSSMAN: Okay. We=ll make that 67, as the
10 Affidavit of Posting. (Exhibit No. 67 was
11 marked for identification.)

12 MR. GROSSMAN: And I noticed that the, in the
13 Affidavit, the case number is not filled in so I=m going to
14 fill that in as S-2816.

15 MR. DONOHUE: Yes, sir.

16 MR. GROSSMAN: All right. Are we ready to proceed
17 then?

18 MR. DONOHUE: We are.

19 MR. GROSSMAN: All right. Mr. Chaney?

20 BY MR. DONOHUE:

21 Q Continuing with Mr. Matt Chaney, Matt, you were
22 explaining to the Chair what the photo simulations were
23 showing. I think we were at (a) and (b).

24 A Correct.

25 Q Let=s continue. Let=s continue alphabetically and

1 tell us what we're looking at and what the photographs show.

2 A Okay. Photograph (c) here was taken from the
3 drive, beginning of the access driveway, sort of the middle
4 of the beginning of the access driveway, and that does show
5 the pole was visible from that location, sort of the top of
6 the pole above the trees and above the house and the barn.

7 Q So in this case, rather than looking at a red
8 balloon, are we looking at a simulation?

9 A Correct. This is a simulation of the unipole.
10 Again, it can be painted. These are typically painted a
11 dull gray or a light brown, something that will blend into
12 the wooded environment.

13 Q Before we get there, what's done in order to get
14 this photograph? What's processed?

15 A We have graphic artists back at Network Building &
16 Consulting, and basically what they do is they take a
17 representative picture of a unipole, and they, they've got,
18 obviously, since they do this for a living, they have stock
19 ones that they can shrink and insert, and then that is
20 overlayed on top of where the balloon was.

21 Q So using the balloon as a --

22 A Correct.

23 Q -- guide for the height of the facility, correct?

24 A Correct, yes. The top of this simulated structure
25 would be at the top of the balloon.

1 MR. GROSSMAN: For the record, you=re talking
2 about, the 66(c) location is viewed from the north and it
3 shows, it says LL Cabin Creek Drive. What does LL stand
4 for?

5 THE WITNESS: Landlord.

6 MR. GROSSMAN: Okay.

7 THE WITNESS: It=s just another industry term of
8 art sort of, an abbreviation that gets frequently used.

9 MR. GROSSMAN: But I don=t -- what does that mean
10 in terms of address, LL Cabin Creek Drive?

11 THE WITNESS: Well, it=s the address of the land.
12 This is from the front of the landlord=s property in this
13 case.

14 MR. GROSSMAN: Okay. And --

15 THE WITNESS: Basically, what it really should say
16 is, you know, subject parcel or something like that.

17 MR. GROSSMAN: Okay. And we note that we have the
18 balloon copy. You indicated you didn=t have enough room on
19 your board there.

20 THE WITNESS: Correct.

21 MR. GROSSMAN: But 66(c-i) is the, shows the red
22 balloon and 66(c-ii) shows the tower simulation at this
23 location.

24 BY MR. DONOHUE:

25 Q Matt, rather than me taking you through

1 alphabetically, why don=t you go through and tell us what
2 the remainder of the board shows.

3 A Okay. Photograph(d) was taken from Friendlywood
4 Road and Perrywood Drive. It was not visible from that
5 location. Photograph (e) was taken from down on Cabin Creek
6 Court. It was not visible from that location. (F) was
7 taken from Locustwood Lane and Kaywood Lane. It was not
8 visible from that location. Photograph (g) was taken from
9 Friendlywood Road, sort of the middle portion of that. It
10 was not visible from that location.

11 Photograph (h) was taken from Friendlywood Road
12 and Friendlywood Court. It was not visible from that
13 location. Photograph (i) was taken from Locustwood Lane to
14 the west of the site. It was visible from that location.
15 You have to kind of look down through the trees to be able
16 to see it. (i-1) is showing the balloon. There=s a red
17 arrow pointing to it. And (i-2) is the simulation of the
18 unipole and there=s a red arrow pointing to where that=s at.
19 That one is difficult to see. Q Approximately the
20 middle of the frame, is that correct?

21 A Correct.

22 MR. GROSSMAN: All of these photographs were taken
23 during the winter when the leaves were off, is that correct?

24 THE WITNESS: Correct. This was all taken January
25 14th. Photograph (j) was taken from down the road from the

1 subject parcel on Cabin Creek Drive, basically Cabin Creek
2 Drive and Cabin Creek Court. It was not visible from that
3 location. Photograph (k) was taken from the south down on
4 Fairdale Road and again, that one was visible sort of down
5 through the trees and again, there=s an arrow pointing to
6 the red balloon in (k-1) and an arrow pointing to the
7 simulated unipole in (k-2).

8 MR. GROSSMAN: I used the (I), double (I).

9 THE WITNESS: I=m sorry.

10 MR. GROSSMAN: The only place I didn=t use that is
11 when, for 66(I) which I thought would make it confusing.

12 BY MR. DONOHUE:

13 Q Matt, before you leave (k), do you have an
14 approximation of the distance from the photographer, if you
15 will, from where the photo was taken and the compound?

16 A How far it is from that location to the site?

17 Q Right. If you know.

18 A I, I don=t.

19 MR. GROSSMAN: I have to say, usually, these, on
20 these maps, they tell us the distance from the site at the,
21 in the overall map which makes it a little easier.

22 THE WITNESS: Yeah. I=m not sure why this one
23 didn=t do that?

24 MR. GROSSMAN: What=s the scale of this overall
25 map?

1 THE WITNESS: Well, the front from where the site
2 located, the site is located out to Cabin Creek Drive can be
3 pulled off the site plan. That one is, I want to say about
4 800 feet but let me verify that.

5 MR. GROSSMAN: That will give us a measuring stick
6 at least for the --

7 MR. LEEGER: So one inch is roughly 400 feet is
8 what you=re thinking?

9 MR. GROSSMAN: No. It looks like, more like one
10 inch is about six to 800 feet.

11 THE WITNESS: It=s looking like it=s about 750
12 feet. No, it=s actually more than that. Sorry. About 800
13 feet. About right. About 800 feet from -- right. From the
14 pole, the site location to Cabin Creek Drive.

15 MR. LEEGER: So it would be about one inch is
16 about 500 feet. That=s about two inches on that map?

17 MR. GROSSMAN: It doesn=t look like two inches.

18 THE WITNESS: No. That=s not two inches.

19 MR. DONOHUE: You know what? Rather than guess,
20 that=s a large scale, why don=t we give you the exact, the
21 data that you were indicating you=ve seen. I=ve seen that
22 too.

23 MR. GROSSMAN: All right. That would be helpful
24 for this and future cases.

25 MR. LEEGER: Sorry. I interrupted you.

1 MR. GROSSMAN: All right. Go ahead.

2 THE WITNESS: Okay. And then so that was (k).

3 And then (l) is the last one that was taken from the
4 southwest, south/southwest, and that was taken on Culp
5 Court. And again, (l-i), the balloon is shown sort of down
6 through the trees again with the red arrow pointing to it
7 and (l-ii) or (l-2) is shown with the facility simulated.

8 BY MR. DONOHUE:

9 Q The Chair asked you about the tree cover --

10 A Uh-huh.

11 Q -- between the photographer and the balloon fly.
12 How would you characterize the nature of those trees?

13 A They=re deciduous trees.

14 Q And without their leaves?

15 A Yes. In this case, they have no leaves.

16 Q And again, the photographs and the simulations
17 were taken from the balloon fly on January 14th?

18 A I=m sorry?

19 Q Did the photographs and the, the photographs that
20 we=re looking at here were taken from the balloon fly on
21 January 14th.

22 A That is correct.

23 Q Matt, I=m going to ask you some questions about
24 the ingress and egress and also the compound, so maybe you
25 want to get that site plan up.

1 MR. GROSSMAN: Before you get to that, just do
2 these photographs, Exhibit 66 and their subparts, are they
3 accurately represent the scene as recorded from these
4 photographs?

5 THE WITNESS: Yes, sir.

6 MR. GROSSMAN: All right. Thank you.

7 BY MR. DONOHUE:

8 Q All right. So we're on 42, Exhibit 42.

9 A (C) I believe.

10 Q Special exception site plan, right. 42(c). All
11 right. Again, compound location. Why don't you describe
12 the access to the compound from the public right-of-way.

13 A Sure. In the public right-of-way, there is a 25-
14 foot easement over a shared driveway, that is a paved
15 driveway, and that comes back past what's labeled Parcels 3
16 and 4 here on this exhibit. And then once it reaches -- it
17 goes through those properties and then reaches the subject
18 property, and then it's a gravel access road that leads down
19 the east property line toward the back of the parcel.

20 Q So the proposed improvements, the proposed road
21 are shown as a cross-hatch there on the plan, correct,
22 adjacent to the eastern property line, is that correct?

23 A Correct.

24 Q Let's first start up on Cabin Creek Drive.

25 A Okay.

1 Q The drive that takes you on the first part of this
2 journey, the drive that=s a shared drive as you explained
3 it, I=m sorry, you explained it=s 25 feet in width?

4 A There=s a 25-foot easement there.

5 Q And is it paved today?

6 A Uh-huh.

7 Q Is it in good condition?

8 A Yeah.

9 MR. GROSSMAN: You have to answer yes, not uh-huh.

10 THE WITNESS: I=m sorry. Yes. It is paved.

11 MR. GROSSMAN: Okay.

12 THE WITNESS: And, yes. It is in good condition.

13 BY MR. DONOHUE:

14 Q Are improvements necessary in order for T-Mobile=s
15 use of the property?

16 A No.

17 Q So the improvements on Gibson property are what?
18 What is the, what=s the vehicular --

19 A Again, there is an existing gravel access road.
20 At this point, we=re not proposing any, we=re not proposing
21 any additional improvements to that road. Obviously, we
22 would improve it if it became necessary but typically, in
23 this case, we don=t anticipate having to do so.

24 Q For purposes of construction, if you know, what=s
25 the vehicular need on the roads?

1 A For construction, it is typical light
2 construction. There would be a small cement truck. There
3 would be a truck with gravel on it. These are, it=s not
4 particularly heavy duty trucks but they=re, they=re
5 construction vehicles.

6 Q Do you know the length of time for the
7 construction?

8 A The actual construction of a facility like this
9 takes place over the course of a couple of weeks. Typically
10 -- there aren=t often occasions where the same truck goes
11 out there a couple of times. You know, the cement truck
12 comes in, does what the cement truck does and goes out, and
13 that= the only day that we need it there. This one, I=m
14 saying a couple of weeks because there=s, you know, the
15 steel needs to be brought in for the platform, assembled
16 and, but it=s -- I would say a couple of weeks.

17 Q You heard Mr. Gibson explain that he ran
18 construction vehicles in and out of his property.

19 A Uh-huh.

20 Q And he characterized it as everyday usage such
21 things as Bobcats and loaders.

22 A Uh-huh.

23 Q Is the proposed use --

24 MR. GROSSMAN: You have to answer yes or no.

25 THE WITNESS: I=m sorry, yes. I did hear that.

1 BY MR. DONOHUE:

2 Q Is the proposed use by T-Mobile consistent with
3 Mr. Gibson explaining in terms of his prior use of the --

4 A Given what Mr. Gibson explained as the trucks that
5 he brought across, they are reasonably similar to what we
6 would bring. It=s very similar I would say to what is
7 being, what we would bring across.

8 Q Following construction, T-Mobile would
9 occasionally have to visit the site, is that correct?

10 A That is correct.

11 Q Approximately what frequency would those visits
12 be?

13 A Typically, once a month is, a tech might come out
14 to the site just for routine maintenance. That, that=s what
15 it averages out. Sometimes it=s longer than that. Once in
16 awhile it=s shorter than that but it averages out over time
17 to be about once a month. One trip.

18 Q What type of vehicle is the tech going to be
19 using?

20 A One sport utility vehicle.

21 Q Is that typically a daytime or a nighttime visit?

22 A Typically daytime.

23 Q Right. Okay. All right.

24 MR. GROSSMAN: How long doe that visit take?

25 THE WITNESS: It depends on the maintenance that

1 they=re doing but they=re, they=re usually about 30 to 45
2 minutes back there. Again, if they have to, if they have to
3 replace a component or something, they could take a little
4 longer but usually, they try to get in and out as fast as
5 possible.

6 MR. GROSSMAN: Are you familiar with other
7 carriers and their practice?

8 THE WITNESS: I, I have not, I=ve not worked on
9 many projects for other carriers so, I mean, I=ve heard
10 things, I know things generally but I --

11 MR. GROSSMAN: No, I --

12 THE WITNESS: -- don=t know that I can testify to
13 it.

14 MR. GROSSMAN: Okay.

15 BY MR. DONOHUE:

16 Q So following construction, what we=re talking
17 about here is a, admittedly, a once-monthly visit.

18 A Correct.

19 Q Tech visit is what you described.

20 A That is correct.

21 Q We talked about the design. We talked about the
22 T-Mobile facilities being located within the, I called it
23 the skin of the unipole.

24 A Uh-huh. Yes, sir.

25 Q And you explained to the Chair in questioning that

1 co-location was, to be forward, was to be made available
2 consistent with County policy, correct?

3 A Correct.

4 Q Is it your understanding that a subsequent co-
5 locator would also locate within the, quote, skin of the
6 unipole?

7 A That is correct.

8 Q And also within the proposed compound?

9 A Correct.

10 Q So construction for the second carrier, should
11 there be a second carrier, construction for the second
12 carrier would be what? What type of vehicular, what type of
13 construction traffic would be --

14 A When you=re, when you=re constructing a co-
15 location, it=s considerably smaller, especially in, when you
16 don=t have to build out your own compound. In this case,
17 there would be trucks that would bring in their steel
18 platform and then, obviously, a Bobcat probably to grade out
19 something if it needed to be graded out so that=s a
20 possibility, though depending on when they co-locate it,
21 that may not be necessary. And then again, a small truck to
22 bring the antennas, equipment, cabinets, et cetera.

23 Q Matt, maybe you want to go to the enlarged site
24 plan.

25 A Okay.

1 MR. GROSSMAN: How long would that take? You're
2 familiar with a co-location by --

3 THE WITNESS: The construction time line for a co-
4 location?

5 MR. GROSSMAN: Yes.

6 THE WITNESS: I would say probably half the time
7 of a -- so a week.

8 MR. GROSSMAN: Okay.

9 THE WITNESS: That=s generally what our
10 construction team shoots for in co-los.

11 MR. GROSSMAN: Okay.

12 BY MR. DONOHUE:

13 Q There=s this or there=s Z3, Matt. Whichever is
14 easier. I=m going to ask you about them.

15 A I=ll go to this one.

16 Q Okay.

17 A I=m on page Z3 at this point.

18 Q All right. And that is 42(e). Matt, in
19 connection with the community meeting on January 14th and as
20 provided in the record, there=s some explanation of battery
21 backup with T-Mobile, correct?

22 A Correct.

23 Q And you=re familiar with T-Mobile=s practices,
24 policies on backup, right?

25 A Correct.

1 Q What=s the idea there? What=s contemplated by
2 backup power?

3 A Well, we have backup power in each of the cabinets
4 to allow the cell site to continue running should the power
5 go out. That=s what you use battery backup for.

6 MR. GROSSMAN: So I take it when you=re not on
7 backup, you are getting power from standard --

8 THE WITNESS: Correct.

9 MR. GROSSMAN: -- power supplied by --

10 THE WITNESS: Just standard electrical.

11 MR. GROSSMAN: Whether it=s Pepco or BGE.

12 THE WITNESS: Uh-huh. Exactly. Whichever
13 provider is in the area.

14 MR. GROSSMAN: Okay.

15 BY MR. DONOHUE:

16 Q So what is the battery backup at a standard T-
17 Mobile installation?

18 A At a standard T-Mobile installation at this point,
19 all of the battery backup is located within the cabinets.

20 Q Is that consistent with T-Mobile=s facilities
21 throughout the County?

22 A Correct.

23 Q There=s been discussion about generators. There
24 was some explanation from some of the neighbors about power
25 outages, some of them being prolonged.

1 A Uh-huh.

2 Q What=s your understanding about a generator
3 deployment at T-Mobile sites?

4 A T-Mobile very, very rarely uses generators and
5 it=s typically only in the case of widespread power outages.
6 I would say I can remember generators being deployed on any
7 sort of widespread scale twice in the last six years and
8 it=s very, it=s for very short periods of time.

9 Q Does T-Mobile have a generator to correspond with
10 each of its sites in the County?

11 A No, sir.

12 Q The generators that are --

13 MR. GROSSMAN: Generators are not on site?

14 THE WITNESS: No.

15 MR. GROSSMAN: Okay.

16 THE WITNESS: We do not keep generators on site.

17 MR. GROSSMAN: How long does a batter backup last
18 if the power goes out?

19 THE WITNESS: Each battery has a four to twelve,
20 four to twelve hour backup time.

21 MR. GROSSMAN: So when you say, how many batteries
22 are there when you say each battery?

23 THE WITNESS: There=s four, each cabinet has four
24 batteries in it.

25 MR. GROSSMAN: So do you multiply that times -- is

1 it four times four to twelve hours or are you just saying
2 that your total battery backup is four to twelve hours?

3 THE WITNESS: I'm trying to think. Yeah. I
4 don=t, honestly, I'm not certain that I can answer that. I
5 don=t know that I have that information.

6 MR. GROSSMAN: All right.

7 BY MR. DONOHUE:

8 Q But you=re not proposing a generator to be
9 installed at the facility, is that correct?

10 A No, sir.

11 Q Should a generator be needed and available, where
12 would the generator be? What=s the, what would you use in
13 the event a generator had to be deployed?

14 A It=s a standard, it=s a standard diesel-powered
15 generator. They=re on trailers. They, they=re encased in
16 an aluminum shield to restrict the sound. It=s a standard
17 diesel-powered generator.

18 Q Located within the compound?

19 A Yes. If there=s room within the compound, that
20 would obviously be the preferred location. If all three
21 carriers built out inside the compound, there may not be
22 room and we may have to put it temporarily on the outside.
23 Once again, we just simply don=t use them very often so
24 there hasn=t been a lot of occasions for that to come up.

25 Q Is it your testimony that the generator, if

1 needed, if available and if located on site, would be in
2 compliance with the County=s Zoning Ordinance and other
3 requirements?

4 A Yes, sir.

5 Q Likewise, the batteries. Is it your testimony
6 that they=ll be in compliance with the County=s storage and
7 all the requirements?

8 A Yes, sir.

9 Q Thank you, Matt.

10 MR. GROSSMAN: Does the diesel fuel, is the diesel
11 fuel carried on the trailer?

12 THE WITNESS: The diesel fuel, it=s initially
13 filed up before, before it leaves wherever facility it=s
14 starting out from and then it would need to be refueled, I
15 want to say it=s after 12 hours. But again, I can=t
16 remember a site having a generator on it for 12 hours.

17 MR. GROSSMAN: All right. You don=t have diesel
18 fuel onsite.

19 THE WITNESS: No. No.

20 MR. GROSSMAN: Okay.

21 THE WITNESS: There=s no, there=s no fuel stored
22 on site.

23 MR. GROSSMAN: What=s the safety record of those
24 batteries?

25 THE WITNESS: Since the network was deployed in

1 1999, we have had no instances of leakage, no instances of
2 -- they=re computer-monitored from our control center and
3 we=ve had no instances of any problems with any of the
4 batteries since the network was deployed in '99.

5 MR. GROSSMAN: Does any of the equipment on site
6 make any noise other than I presume if you have a generator
7 in use?

8 THE WITNESS: No. None of the equipment cabinets,
9 nothing that we have out there makes any significant noise.

10 MR. GROSSMAN: How about fumes?

11 THE WITNESS: No, sir.

12 MR. GROSSMAN: All right. And how about lights?
13 Do you have lights on your tower?

14 THE WITNESS: We=re not, we=re not proposing to
15 mount any lights to this pole. The FAA does require it if
16 it=s over 200 feet or if it meets certain other criterion.
17 We did our FAA filing and they said that there was no
18 lighting required.

19 MR. GROSSMAN: All right. I presume you=ll have
20 some kind of emergency light on near the cabinets?

21 THE WITNESS: Correct. In the inside, inside some
22 of the cabinets, both the equipment cabinets and the utility
23 cabinets, it=s a standard lightbulb. But, yes. In case of
24 an emergency after dark, there would be a light inside that
25 would turn on when you open the door.

1 MR. GROSSMAN: But those lights are off as a
2 matter of regular practice.

3 THE WITNESS: Correct. They only come on when the
4 door is opened for maintenance.

5 MR. GROSSMAN: There=s no other lighting.

6 THE WITNESS: No, sir.

7 BY MR. DONOHUE:

8 Q Just to be clear, Matt, the lighting you=re
9 talking about, where is it oriented?

10 A It=s pointing into the, it=s mounted inside the
11 cabinet and points down over the cabinet so that the tech
12 can see what they=re doing inside the cabinet and it=s not
13 pointed out from the cabinet.

14 Q And that=s the cabinet inside the board-on-board
15 fence.

16 A Correct.

17 Q And the pole itself is not proposed to be lit.

18 A No, sir.

19 Q Thank you.

20 MR. DONOHUE: Mr. Chairman, that=s all I have on
21 direct.

22 MR. GROSSMAN: All right. We=ll start out with
23 Mr. Leeger. Cross-examination. Do you want to have a seat,
24 sir?

25 THE WITNESS: Would it be better if I was up here

1 or --

2 MR. LEEGER: That=s up to you. You might find it
3 -- it=s Mr. Leeger. I have not been sworn in. Does that
4 matter for cross?

5 MR. GROSSMAN: No.

6 MR. LEEGER: Okay.

7 MR. GROSSMAN: For examining the witness, it
8 doesn=t matter. When you testify, you should be sworn in.
9 If I forget that with any of you are testifying, remind me.
10 Have a seat.

11 MR. LEEGER: Mr. Chaney and Mr. Grossman, thank
12 you for giving us this opportunity.

13 CROSS-EXAMINATION BY MR. LEEGER

14 BY MR. LEEGER:

15 Q You=ve given us a resume. Rather impressive.
16 You=ve got experience as a seasoned land professional,
17 telecommunication industry, an expert by all means.

18 MR. GROSSMAN: He wasn=t, they didn=t attempt to
19 qualify him as an expert.

20 THE WITNESS: But thank you.

21 MR. GROSSMAN: They used his testimony as his
22 knowledge of this --

23 MR. LEEGER: Knowledgeable then. Maybe that=s a
24 better word.

25 MR. GROSSMAN: -- of this particular kind of

1 operation.

2 MR. LEEGER: Okay.

3 MR. GROSSMAN: Institutional knowledge I guess
4 we=ll call it.

5 BY MR. LEEGER:

6 Q And you=ve collected all this data to present this
7 information fairly and accurate to everybody.

8 A Yes, sir.

9 Q Okay. I just want to make sure because I have not
10 seen these photos or anything before today and quite a few
11 of these people have not. A couple things you said just
12 jump out at me. There was a discussion raised about the
13 tower=s effectiveness at the height, that at 95 feet versus
14 115 feet, having the same effectiveness.

15 Why are we at 115 feet? Wouldn=t it be cheaper to
16 do 95 feet?

17 MR. DONOHUE: Mr. Chairman, the expert that is
18 going to explain and address the height that you asked
19 about, the 115, is really the next witness.

20 MR. LEEGER: Okay.

21 MR. DONOHUE: I mean, I don=t mind the question.

22 MR. LEEGER: Better served to ask that question to
23 the next person.

24 MR. GROSSMAN: I=ll take that as an objection or
25 you don=t care if this witness is asked. It=s outside the

1 scope of the direct.

2 MR. DONOHUE: It is outside his testimony.

3 MR. LEEGER: Okay. I was just --

4 MR. GROSSMAN: But you can --

5 MR. DONOHUE: I was just suggesting that the next
6 witness might be better.

7 MR. LEEGER: Next witness. Perfectly fine. As
8 long as we get an answer to it.

9 MR. DONOHUE: Sure.

10 MR. LEEGER: That=s all I=m looking for.

11 MR. GROSSMAN: Fair enough.

12 BY MR. LEEGER:

13 Q The views and the effect on the neighborhood, who
14 is going to decide the color if this is approved?

15 A Traditionally, something like this, we would, we
16 would paint light brown or a dull gray. I know the Board
17 can and the Hearing Examiner can make a recommendation also.
18 The Board can stipulate a condition. T-Mobile honestly is
19 fine painting it -- again, traditionally, we paint it light
20 brown or dull gray in this case but if there=s some other
21 color that the Board feels is more appropriate, we don=t
22 have a problem.

23 MR. LEEGER: Can I switch back to the picture here
24 so I can keep a reference when I ask this question?

25 MR. DONOHUE: Certainly. I=m going to need to

1 identify this.

2 MR. DONOHUE: Would you like me to move the site
3 plan?

4 MR. LEEGER: No. I think I'll fit.

5 MR. DONOHUE: Okay.

6 MR. GROSSMAN: Well, I should note if the members
7 of the community wish to have input on that question, if the
8 special exception is granted, a color of the pole that the
9 community prefers, certainly you should let us know about
10 that.

11 MR. LEEGER: Okay.

12 MR. SAPHIER: Should we wait the question out to
13 later or now?

14 MR. GROSSMAN: When you testify, you can indicate
15 what color you'd prefer.

16 MR. SAPHIER: Well, I plan to ask questions as
17 well.

18 MR. GROSSMAN: Okay. You can ask questions when
19 it gets to your turn, when Mr. Leeger finishes.

20 BY MR. LEEGER:

21 Q Are these all the towers in the area?

22 MR. GROSSMAN: You're referring to --

23 MR. LEEGER: Oh, yes. 64. The existing on-air
24 coverage. It's the, this wouldn't be topographical but it's
25 the site, the location showing --

1 MR. DONOHUE: It=s propagation.

2 MR. LEEGER: Propagation map.

3 BY MR. LEEGER:

4 Q It=s showing I believe we have Columbia Pike, Old
5 Columbia Pike and the general neighborhood. And yellow is
6 the area that coverage is unacceptable?

7 A Correct.

8 Q Is that the way we=re describing this?

9 A That is, yes. That is coverage gaps.

10 Q And in the upper part towards the right is where
11 the new tower would be, correct?

12 A You are pointing to the correct location, yes.

13 Q Are there any other cell towers in this area?

14 A The, the towers in this area, we=re, we=re on the
15 towers in this area.

16 Q This is all of them?

17 A Yes.

18 Q And there was an extensive study that said this is
19 the best place to cover this.

20 A We looked at a number of locations and, yeah,
21 this, given all of the factors, this was the best location.

22 Q Because I look at this and I=m very naive to
23 wireless communication. This is way out on the far right.

24 A The coverage in this case -- this is a very, very
25 large coverage gap. This one site, given the current way

1 that this, the neighborhoods and such, you really can=t
2 cover that entire gap with one site so what happens with a
3 gap of this size is you break it up into search areas.
4 You=ve got the upper right quadrant, you=ve got the lower
5 quadrant, well, I guess third, and then you=ve got the third
6 on the north lots.

7 Q So T-Mobile is going to be looking to build more
8 sites then in this area?

9 A There are applications, yes, to try to cover all
10 of the coverage gaps.

11 Q And there were no commercial properties available
12 that would have worked?

13 A The only --

14 Q In this entire site?

15 A No, sir. The --

16 Q Everything was a residential zone. Because we=re
17 asking for a special exception for residential zone.

18 A Correct.

19 Q So you feel this is accurately representing all of
20 that.

21 A Yes.

22 Q Do any of the cell companies have service in this
23 area?

24 A I don=t know what the --

25 MR. DONOHUE: Objection.

1 THE WITNESS: What the service levels are.

2 MR. GROSSMAN: What=s your objection?

3 MR. DONOHUE: He didn=t testify to other carriers.

4 MR. GROSSMAN: Well, I=ll let him ask the
5 question. Overruled.

6 THE WITNESS: I do not know what the coverage
7 level is for the other carriers in the area.

8 MR. LEEGER: Would that be more appropriate for
9 the RF person? Am I asking the wrong person that question?

10 MR. DONOHUE: Well, it=s beyond the scope of what
11 he testified. That=s my objection.

12 MR. LEEGER: Okay. I=m a little naive to this
13 process so I=ll go with, that might be a better question for
14 then next.

15 MR. GROSSMAN: Well, he may or may not be. The RF
16 engineer may or may not know. What=s the purpose of the
17 question as to whether or not there are other carriers which
18 have facilities there?

19 MR. LEEGER: It=s been stated, Mr. Chaney said
20 that it=s the special exception is going to allow T-Mobile
21 to put antennas on this residential property.

22 MR. GROSSMAN: Right.

23 MR. LEEGER: And allow up to two other carriers.

24 MR. GROSSMAN: They=re required by law to make the
25 facility available to at least two other carriers.

1 MR. LEEGER: My understanding is when they do
2 that, other carriers can then put antennas to improve their
3 service. I'm wondering then if there=s other towers or
4 other places T-Mobile could put an antenna to get better
5 service. Is this tower necessary. I'm trying to --

6 MR. GROSSMAN: I see. Whether, so you=re asking
7 in effect whether or not there are already existing towers
8 from other carries that they could co-locate, that T-Mobile
9 could co-locate.

10 MR. LEEGER: Correct.

11 MR. GROSSMAN: Well, let=s ask that.

12 MR. LEEGER: Which would probably be less
13 expensive than building a tower.

14 MR. DONOHUE: Excuse me.

15 MR. GROSSMAN: Sure.

16 MR. DONOHUE: That=s been asked and answered. You
17 asked the man were there other towers for co-location. He
18 said no.

19 MR. GROSSMAN: Well, let him answer again for
20 that.

21 THE WITNESS: Correct. There are --

22 MR. GROSSMAN: Are there other towers in there

23 THE WITNESS: There are no other towers that we
24 could co-locate to.

25 MR. LEEGER: Okay.

1 MR. GROSSMAN: Okay.

2 BY MR. LEEGER:

3 Q And I=m just, I=m trying to get an understanding
4 of all the things that you said. You started out saying
5 that this is very similar to a flagpole. I believe that was
6 almost the opening statement if we go back and to this. And
7 in reading this, I was kind of looking at the description.
8 This is 42 inches at the base and 30 inches at the height.
9 It=s a big flagpole.

10 A Well, it is, it is a telecommunications flagpole,
11 that=s correct. It is -- telecommunications flagpoles, in
12 order to house all of the antennas and cables, do need to be
13 larger than --

14 Q So it=s not really a flagpole. That was not
15 really a correct --

16 A It=s just designed, it is designed to look like a
17 flagpole.

18 Q I just was curious so we all understand what we=re
19 looking at --

20 A Absolutely.

21 Q -- on the information. I believe we have several
22 questions from different people who would like to also ask
23 you.

24 MR. GROSSMAN: Do you want to ask your questions
25 directly, sir?

1 MR. ALBERT: Yes.

2 MR. GROSSMAN: All right. Well, come forward and
3 have a seat. Are you done, Mr. Leeger?

4 MR. LEEGER: Yes. At this point.

5 MR. GROSSMAN: Okay.

6 MR. LEEGER: I think mine go to the radio
7 frequency person is what we found out.

8 MR. GROSSMAN: All right. Sure. All right. Come
9 forward.

10 MR. ALBERT: I need to go to --

11 MR. GROSSMAN: And just identify yourself.

12 MR. ALBERT: Alan Albert.

13 MR. GROSSMAN: Okay, Mr. Albert.

14 MR. ALBERT: I need to go to --

15 THE WITNESS: The pictures?

16 MR. ALBERT: No. That will come. This right
17 here, the site plan. Or maybe it was a picture. Is this
18 the only item that --

19 THE WITNESS: Yeah. All of our site plans.

20 MR. ALBERT: What was the one before this?

21 MR. GROSSMAN: You mean that --

22 THE WITNESS: The aerial view?

23 MR. GROSSMAN: -- was part of the site plan or --

24 MR. ALBERT: The aerial view.

25 MR. GROSSMAN: Oh, the aerial view.

1 MR. ALBERT: That=s what I wanted.

2 MR. GROSSMAN: Exhibit 63 I think.

3 MR. ALBERT: That=s correct. Thank you. Thank
4 you.

5 CROSS-EXAMINATION BY MR. ALBERT

6 BY MR. ALBERT:

7 Q The Gibson property here.

8 A Correct.

9 Q You had stated that in your search of the area,
10 you=re looking for, you know, not only the covering but
11 you=re also looking for maximum reception. Is it fair to
12 say or if I have to, you know, go with the RF person but is
13 it, but since he=s the site coordinator on this, is it fair
14 to say that you=re looking for height for signal coverage?

15 A There is, there is a height element that needs to
16 be mapped --

17 Q Okay. And in that --

18 A -- in order for the site to work.

19 Q -- same process, this is just our existing
20 neighborhood. Just the adjacent portion right over here --

21 MR. GROSSMAN: Right over here being to the east
22 of the site?

23 MR. ALBERT: Oh, I=m sorry.

24 MR. GROSSMAN: It would be --

25 MR. ALBERT: It=s off of the site.

1 MR. GROSSMAN: Right.

2 MR. ALBERT: But you can see the ballfield.

3 MR. GROSSMAN: Right.

4 MR. ALBERT: This is Banneker Middle School.

5 MR. GROSSMAN: Right. That=s to the east of the
6 subject site.

7 MR. ALBERT: Yes.

8 MR. GROSSMAN: Okay.

9 MR. ALBERT: Which is no more than a half a mile
10 as the crow flies. Since we=re talking about RF signals,
11 that=s how they go. Now --

12 MS. STINE: It=s three-tenths of a mile.

13 MR. GROSSMAN: Well, let=s not call out from the
14 audience.

15 MR. ALBERT: Yes.

16 BY MR. ALBERT:

17 Q So with that said, why did not, why is the school
18 not part of this site search considering that if we=re
19 talking in terms of flagpoles, and I did see in an
20 informational meeting held in this building a week ago, no,
21 this week as a matter of fact, that they showed actual
22 flagpoles, you know, with the American flag at the top of
23 it, and it was a unipole design. In that case, why don=t we
24 place it onto the school property and have the American flag
25 proudly displayed?

1 A There=s two reasons. First of all, Montgomery
2 County Public Schools, both when this search ring was
3 started in 2008 and I believe still currently, are not, have
4 not leased any sites for new telecommunication, new stand-
5 alone telecommunication facilities that are not, where there
6 isn=t already existing tall stadium lights. We have done
7 sites with Montgomery County Schools on stadium lights but
8 traditionally, they have not -- they started down the road
9 leasing some of them and have ultimately withdrawn their
10 interest in leasing them for sites that are stand-alone
11 without any stadium lighting.

12 In addition, there would be a greater visual, more
13 homes would be able to see a site placed at Banneker than in
14 the proposed location. So because they likely would not
15 lease to us and also, because of the visual impact, that=s
16 why this site was chosen as preferable over Banneker Middle
17 School.

18 Q Would they not want to -- well, you can=t answer
19 that. Let me say we=re talking about a flagpole being
20 presented, is that correct, on a school property?

21 A There have been proposals for flagpoles on school
22 properties.

23 Q Okay. And to follow up on that, does the school,
24 would that not be a special exemption as well?

25 A It would still be a special exception.

1 Q Then why aren=t we working towards, you know,
2 proposing that where it would be a, it would be proudly
3 displayed for all instead of just a one, one neighborhood?

4 MR. GROSSMAN: Well, he=s already answered that
5 question. He=s given two reasons. One is that the school
6 system apparently has not been willing, recently, to approve
7 those unless there are stadium lights, and two, it would be
8 more visible in the community if it were in that location.
9 But he=s answered your question.

10 MR. ALBERT: May I ask a question to you then?

11 MR. GROSSMAN: Sure.

12 MR. ALBERT: With that said, all right, then why
13 are they over and above a neighborhood, you know, how do
14 they get around the special exemption?

15 MR. GROSSMAN: How does who?

16 MR. ALBERT: The school.

17 MR. GROSSMAN: They don=t have --

18 MR. ALBERT: Why don=t -- you know, I understand
19 the impact is more visible, you know, out on a school
20 playground but in terms of, you know, if that=s their
21 answer, you know, why are --

22 MR. GROSSMAN: For this particular --

23 MR. ALBERT: Why are we skating, why are we going
24 around the issue of placing it on a, you know, public
25 property even though it=s controlled by Montgomery County

1 Public Schools

2 MR. GROSSMAN: I don=t know that we=re skating
3 around the issues. If you=re talking about this particular
4 school, I don=t know if this particular school has a --

5 MR. ALBERT: Well, this particular school is in my
6 neighborhood so --

7 MR. GROSSMAN: Right.

8 MR. ALBERT: -- I have to speak towards that.

9 MR. GROSSMAN: Do they -- are you saying they
10 already have a cell tower in a flagpole?

11 MR. ALBERT: No.

12 MR. GROSSMAN: Oh.

13 MR. ALBERT: I=m saying why isn=t it, why isn=t T-
14 Mobile then, you know, making the effort to apply it here
15 since the physical height is higher than this neighborhood?

16 MR. GROSSMAN: That=s the question he=s --

17 MR. ALBERT: This neighborhood --

18 MR. GROSSMAN: That=s the question he answered.
19 That=s the question he answered. He said because the school
20 system is not approving them unless they have stadium lights
21 and because it would be more visible from that location.
22 He=s answered that question.

23 MR. ALBERT: I understand. Okay.

24 BY MR. ALBERT:

25 Q Back to then, if I could just show --

1 MR. ALBERT: This is, I don=t know, 60 --

2 MR. GROSSMAN: 66 and various subparts.

3 MR. ALBERT: 66. Okay.

4 BY MR. ALBERT:

5 Q With 66, I certainly appreciate all the photos,
6 all right, and this has to be taken, this was taken early on
7 in the morning.

8 A Correct.

9 Q All right. So we have, you know, a skewed, you
10 know, sunlight. In terms of --

11 MR. GROSSMAN: Well, you can=t testify as to what
12 it shows. You can --

13 MR. ALBERT: I can. I live here.

14 MR. GROSSMAN: No, no. You can -- when you=re
15 testifying. This is just your opportunity to question the
16 witness.

17 MR. ALBERT: Oh, okay. Well --

18 MR. GROSSMAN: When you testify, you can --

19 MR. ALBERT: It=s going up, it=s going up to this,
20 okay?

21 BY MR. ALBERT:

22 Q If these photos are accurate, and this is my home
23 so it is accurate as far as this goes, but none of these are
24 from the rear of the homes, all right? Therefore, do we
25 have complete visual access to the Gibson site, you know,

1 from the back of my house? Did you take a picture from
2 there?

3 A I did not take a picture from the back. The
4 graphic artists have to stay on public rights-of-way.
5 Public places they had to be, authority to be on, and they
6 don=t have the right to trespass on people=s property. And
7 so they know very well that they will take pictures from
8 streets and from sidewalks, you know, places and commercial
9 areas that they=re allowed to be at. But, no. Backyards
10 are not someplace where they go.

11 Q Okay. With that said, the neighborhood was, was
12 informed once again that this balloon test was going to take
13 place. If that was the case, all of us, as property owners,
14 and I will speak for those that are --

15 MR. GROSSMAN: No, you can=t. This is your
16 opportunity to question the witness. You can testify as to
17 what you want to say --

18 MR. ALBERT: Okay.

19 MR. GROSSMAN: -- when it comes your turn to
20 testify.

21 MR. ALBERT: Sorry. Then I=ll hold my testimony.
22 Thank you.

23 MR. GROSSMAN: Okay. Additional people who wish
24 to -- yes, Mr. Coles.

25 MR. COLES: I have three or four.

1 MR. GROSSMAN: Okay.

2 CROSS-EXAMINATION BY MR. COLES

3 BY MR. COLES:

4 Q Just a couple quick questions. Number one, this
5 refers back to the generator. The generators, in your
6 testimony, you said the generator was used sparingly. You
7 said you never remember a case, don't remember the exact
8 words but you're saying just overall where you had to use
9 generators for every cell site.

10 A No. That is correct.

11 Q So you're saying that when there's a power outage,
12 okay, is it typical at some point that a generator goes out
13 to 20 cell sites?

14 A Typically, no. Again, like I said, there have
15 been --

16 Q Do any go out I guess is the question.

17 A There are I believe two occasions that I can
18 remember where there was a widespread deployment of
19 generators and the first one was four or five years, I want
20 to, somewhere between four and six years ago. My
21 recollection is a little fuzzy on how long those were out.
22 The later one was within the last 18 to 24 months and that
23 one, all of the generators were brought back, they went out
24 in the morning about 7:00 or 8:00-ish, and they were brought
25 back, the last one came in I believe 3:00, somewhere around

1 3:00 in the afternoon.

2 Q Okay.

3 A So again, I don't remember any instance to my
4 knowledge of a generator being at a site for the 12 hours
5 that, worth of fuel that it has in it.

6 Q And but you use the word widespread deployment.

7 A Correct.

8 Q What about there's a power outage. What
9 determines whether you guys or T-Mobile sends out a
10 generator on a singular site? I'm not talking widespread
11 deployment.

12 A Right. Understood. Again, basically, the
13 batteries are what keep the cell site going during a power
14 outage for the, for just about every case I can ever
15 remember so typically, the generators just don't ever make
16 it up to the sites. Between the batteries and working with
17 the utilities to get the power back up and running, there
18 just hasn't been a deployment of generators.

19 Q And how do you determine whether the power is out
20 or the batteries aren't working?

21 A The equipment cabinets are monitored by our
22 networking operations control center. So basically, they're
23 computer-monitored. There's a signal that goes back from
24 every site to the central location. So they monitor power.

25 Q Moving onto another question. You mentioned

1 stadium lights. There=s a new high school being built in
2 the area. Has there been any discussions with the high
3 school? I notice that typically, I don=t know if it=s
4 Montgomery County or public schools --

5 MR. GROSSMAN: Again, you can=t testify to what=s
6 typical. You can only ask the witness a question.

7 MR. COLES: Okay.

8 BY MR. COLES:

9 Q Have they asked the high school?

10 A Are you speaking of Paint Branch?

11 Q Paint Branch, yes. The new construction that=s
12 going on there.

13 A No. We have not, we have not discussed Paint
14 Branch High School with MCPS. Paint Branch High School is
15 going to be very close to WAN 058 there down at the bottom.

16 Q Uh-huh.

17 A So it is likely to be outside the search ring
18 because you=re going to be there along Columbia between 29,
19 yeah.

20 Q Probably. And last question I have is is there
21 any other access to Gibson=s property besides the use of my
22 driveway, the easement, from Cabin Creek Drive?

23 A No. There=s no existing access other than that.

24 Q There are no other easements?

25 A There=s no -- I=m sorry. What=s, could you repeat

1 the question?

2 Q Are there any other easements or access to the
3 Gibson=s property besides Cabin Creek Drive?

4 A There is -- I=m assuming you=re referring to a
5 paper road called Miles Road, I mean Miles Road exists but
6 there is, there is some record of Miles Road, you know,
7 stating that in theory, it could be extended. At this
8 point, Miles Road ends at the Caplan house so there is no,
9 there is no existing access back through there. And to
10 extend Miles Road, you would have to cut through the stream
11 buffer that M-NCPPC made us move out of in the first place,
12 so I do not believe you could get a natural resource
13 inventory approved to cut a road from Mr. Caplan=s house and
14 nor could you get the water quality plan approved.

15 Q But so your testimony is that there=s no other
16 easement. It=s like a yes or no question.

17 A Yeah. There is no other -- no. There is on other
18 easement at this point.

19 Q Okay.

20 MR. COLES: Thanks.

21 MR. GROSSMAN: All right. Anybody else have
22 questions?

23 MR. HUDSON: Just --

24 MR. GROSSMAN: Yes, sir.

25 MR. HUDSON: McKinley Hudson.

1 MR. GROSSMAN: Come on forward if you, if you
2 would just because we have the microphones up here.

3 CROSS-EXAMINATION BY MR. HUDSON

4 BY MR. HUDSON:

5 Q Just one question that goes back to the issue
6 of --

7 MR. GROSSMAN: Just identify yourself for the
8 record so that --

9 MR. HUDSON: McKinley Hudson.

10 MR. GROSSMAN: Mr. Hudson.

11 BY MR. HUDSON:

12 Q Talking about the issue that Mr. Coles raised with
13 respect to the battery and/or generator issue, are you
14 saying that if the batteries go out and there is no need to
15 bring the generator in, will you allow the tower to become
16 nonfunctional?

17 A No, sir.

18 Q Okay. If that=s the case, then how will you bring
19 it back to a functional operation?

20 A Well, again, I do not recall having to put
21 generators out there. However, if all of the battery, if
22 the battery power was exhausted, then we would bring out a
23 generator to keep it up which is required by our FCC
24 license.

25 MR. GROSSMAN: All right. Does anybody else have

1 questions? Yes, sir. Just identify yourself for the record
2 and come forward.

3 MR. POTTS: John Potts, Locustwood Lane.

4 CROSS-EXAMINATION BY MR. POTTS

5 BY MR. POTTS:

6 Q I'm not familiar with all the designation for the
7 zoning and the environmental impacts. I know you mentioned
8 the terms environmental overlay zone and stream buffers and
9 the like. Can you just state, to clarify, is the subject
10 property within the special protection area from the Upper
11 Paint Branch Watershed?

12 A Yes, there is.

13 Q And your plans comply with all the restrictions of
14 that special protection area?

15 A Yes, sir. We've gotten our NRI/FSD approval and
16 our water quality, water quality plan approvals.

17 Q So that obviously then applies to impervious
18 surfaces as well.

19 A Correct.

20 Q Okay.

21 MR. GROSSMAN: For a special protection area, they
22 have to, they actually have to have that water quality plan
23 approved by the Board of, by the Planning Board and
24 according to the Technical Staff, that has been approved by
25 the Planning Board.

1 MR. POTTS: Okay.

2 BY MR. POTTS:

3 Q I think you mentioned earlier that you wouldn=t,
4 in your position today, know the policies of other carriers
5 with regard to how they would operate the site.

6 A Correct.

7 Q Would that also apply to their potential use of
8 generators?

9 A That is correct.

10 Q So you wouldn=t know the frequency of or the
11 policy of whether they would use a generator if their
12 particular antenna lost power.

13 A You are correct.

14 Q You talked about other locations, the public
15 schools. You indicated you did not contact folks regarding
16 Paint Branch High School. Did you make any attempt to
17 contact the public school system for Banneker?

18 A No, we did not. We=ve, we=ve recently attempted
19 sites at three other middle school locations that were
20 standalone facilities and after, after originally pursuing
21 it, the schools have backed out of the leasing arrangement
22 so we -- they basically said they weren=t interested in all
23 three consecutive times.

24 Q Regarding this, this site?

25 A No.

1 Q Different sites?

2 A Different sites.

3 Q Okay. Do you know or can you state for the
4 residents here what the, what the requirements for public
5 notification for the plans to build a cell tower are?

6 MR. DONOHUE: If you know.

7 THE WITNESS: Yeah. The -- we are required to
8 notify adjacent confronting property owners and also,
9 community organizations per a list that is provided to us by
10 M-NCPPC.

11 BY MR. POTTS:

12 Q So you get the list from the Park and Planning
13 Commission.

14 A Correct.

15 Q Can you just I guess elaborate a little bit on the
16 term adjacent? What did you say?

17 A Adjacent and confronting property owners.

18 Q Yeah, okay.

19 A In this case, because this property doesn=t
20 physically border the street, it was the houses on the south
21 side of Cabin Creek Drive, the Caplan property and then the
22 two M-NCPPC properties.

23 Q So that, that=s it.

24 A Those were the adjacent and confronting property
25 owners to this parcel.

1 MR. GROSSMAN: And the local civic associations --

2 THE WITNESS: Correct.

3 MR. GROSSMAN: -- get notice and the property is
4 physically posted with a sign.

5 MR. POTTS: Okay.

6 BY MR. POTTS:

7 Q So there=s no requirement to notify homeowners who
8 may potentially see the tower but are not adjacent to it.

9 A Just adjacent and confronting property owners and
10 local civic organizations.

11 MR. POTTS: Okay. That=s it.

12 MR. LEEGER: I believe we have two more.

13 MR. GROSSMAN: Ms. Stine.

14 MR. DONOHUE: You can move my stuff if it=s --

15 MS. STINE: No. It=s fine.

16 MR. DONOHUE: All right.

17 MS. STINE: I=m Lisa Stine.

18 CROSS-EXAMINATION BY MS. STINE

19 BY MS. STINE:

20 Q Okay. Let=s see. Where to start. Can we bring
21 up the overall view.

22 A The overall --

23 Q The neighborhood picture.

24 A The aerial?

25 Q The aerial view.

1 MR. GROSSMAN: Aerial photo, 63. Exhibit 63.

2 BY MS. STINE:

3 Q Okay. In this picture, the arrow points right
4 here. Is this, is this the current site or the former site?

5 A It is. It is the currently proposed location.

6 Q It is. Where, could you tell me exactly where the
7 formerly proposed location would have pointed to?

8 A It would have been closer to the trees down on
9 this side.

10 Q And --

11 A Down to the southeast.

12 Q And when did you make the proposed, when did you
13 make the changes that you=re currently proposing?

14 A That occurred in -- we redid the design
15 September/October. I=m trying to remember exactly when that
16 was.

17 Q Okay. That=s good enough. What=s the date on
18 this?

19 A The aerial view?

20 Q Uh-huh.

21 A I believe it=s down in the corner there.
22 2/28/2010.

23 Q It says imagery date 8/28/2010.

24 A I=m sorry, 8/28/2010.

25 Q So this image you=re testifying is the currently

1 proposed location?

2 A Well, the label with the site number was put out
3 -- the image on Google Maps was taken in 2010 and then we
4 put a pinpoint on the location.

5 MR. GROSSMAN: In other words, the map itself, the
6 aerial photo was taken whenever Google took the aerial
7 photo.

8 MS. STINE: Okay.

9 MR. GROSSMAN: But when you look up a location --

10 BY MS. STINE:

11 Q But you put -- so you=re saying that this is the
12 current location that you=re proposing.

13 MR. GROSSMAN: That=s what he=s testified to.

14 THE WITNESS: It is.

15 BY MS. STINE:

16 Q Okay. All right. So the former location is
17 somewhere around in here.

18 A It would, it would be, yeah, down.

19 Q Okay. All right. Thank you. The site drawings.
20 That=s good. The front page is good. No. Just -- could
21 you explain who Gibson Rawland is?

22 A Gibson is the property owner obviously.

23 Q Okay. And who is Rawland?

24 A Rawland is an industry term of art.

25 Q Okay.

1 A For, which basically means a new facility rather
2 than a co-location.

3 MR. GROSSMAN: The actual exhibits, when these
4 were filed, we asked the same question, Ms. Stine.

5 MS. STINE: I noticed they were redacted in your
6 copies.

7 MR. GROSSMAN: Right. And so the official copies
8 happen, the term rawland, which should have, refers to raw
9 land, was since it doesn't pertain to a name, was crossed
10 out and initialed on our official copies.

11 MS. STINE: Okay.

12 BY MS. STINE:

13 Q Earlier when you testified to the setbacks that
14 are documented in the diagram, were these setbacks
15 appropriate to the RE-1 Zone or the R-200 Zone?

16 A The setback is the same in both zones.

17 Q Okay. Thank you.

18 MR. GROSSMAN: I think there=s an actual setback
19 from Zoning Ordinance provisions that pertain to cell
20 towers. In other words, they are very specific setback
21 provisions for cell towers and that=s where the, and they
22 are larger than the zone=s setbacks and so those larger
23 setbacks are the ones that apply.

24 MS. STINE: Okay.

25 BY MS. STINE:

1 Q So have you been out to our neighborhood lately?

2 A Uh-huh.

3 Q Could you describe the trees at their current
4 state?

5 A What information are you looking -- mostly
6 deciduous trees.

7 Q Which means, for those of us who don=t know
8 what --

9 A The leaves fall off in the wintertime.

10 Q So there is far less screening in the winter.

11 A There is less, yeah, when leaves come off the
12 tree. Obviously, there is more screening in the summer when
13 the leaves are on the trees.

14 Q You mentioned that the, your cabinets are going to
15 be built on raised platforms.

16 A Correct.

17 Q What type of material is going to be underneath
18 the raised platform?

19 A It is material, it=s -- what do they put there?
20 It=s pervious material that M-NCPPC has approved to allow
21 the water to go through.

22 Q So --

23 A It=s to limit the impervious surface.

24 Q Okay. All right. So it is a material that will
25 allow things to pass through. Okay. Thank you. You

1 mentioned that you=re going to have batteries.

2 A Correct.

3 Q Could you explain what type of battery it is? Is
4 it a wet or dry cell battery?

5 A It=s, it=s traditionally a standard lead acid
6 battery. Again, they=re the same batteries that are used in
7 all our cabinets throughout the County. They=re located
8 inside the cabinet and inside sealed compartments in there
9 and monitored remotely.

10 Q So the batteries themselves are sealed.

11 A Correct.

12 Q Are you required to have any battery containment
13 systems in place?

14 A I=m not --

15 Q In the event of, in the event of a rupture in one
16 of these batteries, are you required to have a batter
17 containment system?

18 A I do not know.

19 Q Okay.

20 MR. GROSSMAN: When you say are you required, you
21 mean required by regulation?

22 MS. STINE: Yes.

23 MR. GROSSMAN: Or law?

24 MS. STINE: Or recommended by the batter
25 manufacturer.

1 MR. GROSSMAN: Okay. Well, let me ask you this
2 question in view of that answer. Will T-Mobile comply with
3 all regulations, laws and standards that are set by County,
4 State and Federal government regarding battery containment?

5 THE WITNESS: Yes, sir.

6 MR. GROSSMAN: And about manufacturer requirements
7 or recommendations?

8 THE WITNESS: Manufacturer requirements, yes.

9 MR. GROSSMAN: Okay.

10 MS. STINE: Okay. Thank you.

11 BY MS. STINE:

12 Q You mentioned that there -- could you explain -- I
13 think you, I think you said that --

14 MS. STINE: Put up the graph showing the coverage.
15 Yeah.

16 BY MS. STINE:

17 Q Now, you said that your primary goal was to fill
18 in some of this area in-home coverage?

19 A Again, that=s the, that=s the site with the
20 proposed site turned on.

21 Q Oh.

22 A The one that I was speaking to was --

23 MR. LEEGER: You want the other one.

24 MR. DONOHUE: I grabbed the wrong one.

25 THE WITNESS: I think it=s behind the second one.

1 MS. STINE: Okay. Thank you.

2 MR. LEEGER: That=s the improved.

3 MR. DONOHUE: You=re doing a nice job up there by
4 the way. You=re working hard.

5 MR. SAPHIER: We want the information to be fair.

6 BY MS. STINE:

7 Q Okay. So the area where we have the proposed cell
8 tower, your primary goal is to get in-home coverage, is that
9 correct?

10 A It=s a dual goal. In-vehicle and in-home.

11 Q Okay. But -- okay. All right. So but you would
12 probably get more customers from selling your service to in-
13 home rather than those that just pass through the
14 neighborhood.

15 A I don=t work for the sales team.

16 Q Okay. All right. So are there any other
17 technological methods for improving one=s in-home service
18 other than erecting another cell tower?

19 A There are. Again, I don=t work on that side of
20 the aisle but I know that there are some products that you
21 can purchase that are supposed to boost in-home service, but
22 I really don=t know much about them.

23 Q Okay. So you=re not too familiar with the signal
24 replicators that one can --

25 A No.

1 Q That T-Mobile sells from their website.

2 MR. DONOHUE: Mr. Chairman, just for the record,
3 this is beyond the scope of his testimony.

4 MR. GROSSMAN: It is but I'm going to give her the
5 leeway to ask the question.

6 MR. DONOHUE: I thought you might.

7 MR. GROSSMAN: Okay.

8 MS. STINE: Okay. All right. So will there, will
9 there be someone else that=s more appropriate to inquire?

10 MR. GROSSMAN: As to replicators? I mean --

11 MS. STINE: I believe there=s an alternative to
12 this cell site and --

13 MR. GROSSMAN: Okay. Well, there is an RF
14 engineer, Curtis Jews, who will testify --

15 MS. STINE: Who might be able to answer.

16 MR. GROSSMAN: -- who might be able to answer
17 those questions.

18 MS. STINE: Okay. All right. Thank you.

19 BY MS. STINE:

20 Q Do you -- you said that one of the things that you
21 looked at was the local church.

22 A Uh-huh.

23 Q Did you create a proposal --

24 MR. GROSSMAN: You have to answer yes or no.

25 THE WITNESS: I'm sorry. Yes. I keep doing that.

1 MR. GROSSMAN: Uh-huhs don=t come across real well
2 in a transcript.

3 THE WITNESS: Yes, we did.

4 MR. GROSSMAN: Right.

5 BY MS. STINE:

6 Q Did you create a report showing what your results
7 would be if you located in that church?

8 A Did we create a --

9 Q You know, a --

10 A -- propagation map, is that --

11 Q Yes.

12 A Not to my knowledge.

13 Q And --

14 MR. GROSSMAN: It was discussed by the Tower
15 Committee in the Tower Committee=s evaluation though.

16 MS. STINE: Okay. All right.

17 BY MS. STINE:

18 Q When you had the balloon fly this past weekend,
19 you testified that the weather was good conditions. Could
20 you explain what the weather conditions were that day?

21 A The conditions were the wind -- when I said good
22 conditions, I mean the wind was not blowing at a, at a level
23 that would render the balloon test inaccurate.

24 MR. GROSSMAN: It would not render it inaccurate.

25 THE WITNESS: Correct. I=m sorry for double

1 negative. It made, it allowed it to serve its proper
2 function.

3 BY MS. STINE:

4 Q Was there wind blowing on the day of the balloon
5 fly?

6 A Yes. There was some.

7 Q Was the balloon moving around in the air?

8 A It was not 100 percent stationary.

9 Q Okay. Thank you. You mentioned earlier that your
10 batteries provide you four to twelve hours of backup.

11 A That is correct.

12 Q Okay. So four being the least amount, right?

13 A Right.

14 Q Are you, are you aware of the Code of Federal
15 Regulations Title 47, Chapter 1, Sub-chapter 8, Part 12
16 that, Section 12.2 that says that you=re required to have
17 eight hours of backup power at a cellular site?

18 A I don=t know necessarily of that particular -- I
19 know of that rule. I do not -- I=m assuming it comes from
20 the CFR there but I, I=m aware of --

21 Q Okay.

22 MR. GROSSMAN: Don=t, don=t -- he=s being
23 questioned so let=s not talk to him.

24 THE WITNESS: I=m un -- there=s, there=s a
25 proposal out there to require us to do that. I=m not,

1 clearly, I'm not 100 percent familiar on battery
2 regulations.

3 BY MS. STINE:

4 Q Okay. And earlier, you testified that you do not
5 have enough generators in your fleet to cover all of your
6 cell towers.

7 A At this point.

8 Q Is that true?

9 A At this point, no. We do not have one generator
10 per site.

11 Q Okay. So then in the event of a grid-wide power
12 outage in our area, you would not be able to comply with the
13 Code of Federal Regulations, is that true, that requires you
14 to have eight hours of backup power for every cell tower?

15 A Not necessarily.

16 Q How do you propose to provide eight --

17 A Well, I'm sorry. Are you stipulating that every
18 single site in the entire network all went down at the same
19 time --

20 Q That=s --

21 A -- for a period longer than --

22 Q Eight hours.

23 A Then the batteries plus the generators that we
24 have.

25 Q You said that the minimum amount of time the

1 battery will carry you is four hours. You also said --

2 A I=m telling you each battery has a life of four to
3 twelve hours per the specifications.

4 MR. GROSSMAN: Ms. Stine, I think that you=ve made
5 your point on this.

6 MS. STINE: Okay.

7 MR. GROSSMAN: But also, my concerns don=t go as
8 much to the question of, I mean, federal, they have to
9 follow federal regulations. If they don=t, then federal
10 authorities can deal with them. My concerns are the land
11 use impacts, the impacts on the community.

12 MS. STINE: I understand. Okay.

13 MR. GROSSMAN: Okay.

14 BY MS. STINE:

15 Q So in you photographs here, were you there the
16 day?

17 A I was not.

18 Q Okay. The company that took these photographs, is
19 this a company that you use frequently?

20 MR. GROSSMAN: This is Exhibit 66.

21 THE WITNESS: This is the, it is performed by, it
22 was performed by graphic artists employed by the same
23 company that I am employed by.

24 BY MS. STINE:

25 Q Okay. So are they regular contractors who take

1 photos for T-Mobile?

2 A They do take photos for T-Mobile frequently.

3 Q Okay.

4 A They take photos for other people, other vendors
5 as well.

6 Q How accurate would you say their work is?

7 A I am comfortable with the accuracy of their work.

8 Q Okay. So do you believe that each one of these
9 photos was actually pointed towards the site?

10 A I believe that in a case where they cannot see the
11 balloon at all, they attempted to line themselves up with
12 the direction of the site to show a graphic representation
13 that when you are looking in that direction, you cannot see
14 the ball.

15 Q Okay.

16 MS. STINE: Now, I understand that the document
17 that I submitted to you earlier --

18 MR. GROSSMAN: Yes.

19 MS. STINE: -- is old photos at the old site.

20 MR. GROSSMAN: Yes.

21 MS. STINE: However, at some point, I=d like to
22 bring up that those photos were inaccurate and thus, I do
23 not believe that these -- is there an appropriate time to do
24 that?

25 MR. GROSSMAN: Well, I have your letter in the

1 file with it and --

2 MS. STINE: Okay. Is that part of the --

3 MR. GROSSMAN: -- we'll put it in evidence.

4 MS. STINE: Okay.

5 MR. GROSSMAN: But I might add that given that
6 these were just done, I will give you the opportunity, if
7 you want to check it out while the record is still open and
8 to submit something that indicates that it=s not accurately
9 pointing to where it=s purporting to be pointing.

10 MS. STINE: Okay.

11 MR. GROSSMAN: I will accept that given this last
12 minute study, okay?

13 MS. STINE: Very good. Thank you very much.

14 MR. GROSSMAN: Sure.

15 MS. STINE: Thank you. Okay. All right.

16 BY MS. STINE:

17 Q In the, in the diagrams where you depict the
18 tower, is that the, what color would you say that tower is
19 painted?

20 A That=s probably a light brown.

21 Q A light brown. If --

22 A Brownish-gray maybe.

23 Q All right. So if no one makes a request of you to
24 change the color, what color will this tower be?

25 A I would probably tell them a light brown to a

1 brownish-gray.

2 Q Okay. All right.

3 MS. STINE: All right. I think that=s it for now.

4 MR. GROSSMAN: All right.

5 MS. STINE: Thank you.

6 MR. GROSSMAN: Dr. Saphier.

7 MR. SAPHIER: Stewart Saphier for the record.

8 CROSS-EXAMINATION BY MR. SAPHIER

9 BY MR. SAPHIER:

10 Q In no particular order like everyone else did I
11 guess, let=s talk about Montgomery County Public Schools
12 that disallowed the towers. If you know, why did they
13 disallow the towers?

14 A I do not know. They just, they withdrew their
15 interest. That=s, that -- they didn=t really give us any
16 reason. They don=t, they didn=t have to.

17 Q You said they backed out at lease arrangements.

18 A Correct.

19 Q So they are obviously entitled to do that.

20 A They -- we had begun, we had been in lease
21 negotiations. They had not yet signed the lease on any of
22 their sites.

23 Q So just to pick a date at random, a letter signed
24 on May of 2008 where there=s no consideration at all and
25 there=s not even a lease can also be backed out of.

1 MR. DONOHUE: I'm going to object to that
2 question.

3 MR. GROSSMAN: Yes. I'll sustain that objection.

4 MR. SAPHIER: I apologize.

5 MR. GROSSMAN: Okay.

6 BY MR. SAPHIER:

7 Q You mentioned that the tower would not make any
8 significant noise, to use your own word. What is
9 significant?

10 A It is not anything that would be noticeable from
11 outside -- I can't even think of what noise they would make.
12 It's not something that would be heard from outside this
13 property for certain.

14 Q What is the decibels of the noise that it does
15 make?

16 A Very, very low. I don't have any specific data on
17 it. There's -- I can't think of any noise that it makes but
18 I don't want to stand here and say that there's absolutely
19 zero decibels of anything.

20 MR. GROSSMAN: Non-generator. This is --

21 THE WITNESS: Yeah. No. These are just --

22 MR. GROSSMAN: We're not talking about generator,
23 right?

24 MR. MR. SAPHIER:: I'm getting to that one too.

25 THE WITNESS: But no. I mean, there's --

1 BY MR. SAPHIER:

2 Q So it makes some noise. You don=t know exactly
3 how much, right?

4 A The only reason I said it makes any noise at all
5 is that I can=t be 100 percent certain that there is no
6 little tiny click or something.

7 Q How much noise --

8 A Like a switch flipping or something.

9 Q If you should put the generator in to provide the
10 backup power, how much noise do those generators make?

11 A For those specs, I believe that is 68 decibels at
12 23 feet.

13 Q Okay. That=s, what I know of the decibel levels,
14 that=s not quiet, agreed?

15 MR. GROSSMAN: He said at 23 feet. But so
16 presumably, offsite, it would be a lot lower, is that
17 correct?

18 THE WITNESS: Uh-huh.

19 MR. GROSSMAN: Yes. I mean, let=s not -- if
20 that=s the accurate figure, 68 decibels at 23 feet, I, this
21 is all going to be governed by Montgomery County Noise
22 Ordinance. They=ll have to follow Montgomery County Noise
23 Ordinance so.

24 MR. SAPHIER: Okay.

25 BY MR. SAPHIER:

1 Q And how much fumes are the generators going to
2 create?

3 A They are all within, again, County Ordinance
4 requirements, EPA requirements. I don't know how fumes are
5 measured per se but they're all within the appropriate
6 requirements.

7 Q You said that your cabinets and if you should
8 sublet it to two other carriers, those two cabinets as well,
9 so all three cabinets will be inside the compound.

10 A Correct.

11 Q Why then, when you tried to amend the petitions in
12 September and then again in December, did you take out the
13 sentence that said these cabinets would be within the
14 compound?

15 A Taken out of?

16 Q The original petition.

17 A The --

18 Q The original petition said your cabinet was going
19 to be inside the compound. Your petition to amend in
20 September and then your petition to amend in December did
21 not say that the cabinets would be inside the compound. Now
22 you're saying that these cabinets are going to be inside the
23 compound. My question to you is why was the statement that
24 these cabinets will be inside the compound taken out of the
25 amended petitions in September and December?

1 A And I assume you=re speaking of the statement of
2 justification? Is that --

3 Q No. It=s the amended petition.

4 A I=m not sure, I=m not certain which document.
5 There=s no reason that -- these cabinets were never proposed
6 to be anywhere other than inside the compound. If it was,
7 if that, if there is a reference to that that was removed,
8 that was in error. There was no reason for that to be
9 removed.

10 MR. GROSSMAN: They are bound -- there=s always,
11 Dr. Saphier, there=s always a condition, there=s always a
12 condition imposed in a special exception that the applicants
13 are bound by the statements of their counsel and by the
14 testimony of their witnesses at this hearing that are relied
15 on by the, you know, by the Board itself. They are bound by
16 that, to have their equipment inside of the --

17 MR. SAPHIER: I=m just really curious why they
18 would take it out.

19 BY MR. SAPHIER:

20 Q Could you read no. 3 here? First off, do you
21 recognize what this document is?

22 A So this is the document sent by the Board of
23 Appeals.

24 Q Which represents the petition of T-Mobile and both
25 Gibsons to put up the cell phone tower.

1 A Okay.

2 Q And what does no. 3 say over there?

3 A Two equipment cabinets measuring approximately 63
4 inches high, 51 inches wide and 37 inches deep will sit atop
5 a graded steel platform measuring approximately 20 feet in
6 length and 10 feet in width.

7 MR. GROSSMAN: This is a notice that we sent out?

8 THE WITNESS: Correct.

9 MR. GROSSMAN: All right. It may just be that
10 when we summarized, we can=t always put everything in the
11 notice. We have to give reasonable notice. It may be that
12 we knocked out some language because it wasn=t considered
13 critical language to give notice. I have no idea. The
14 important point here, Dr. Saphier, is that they are bound to
15 have all of their equipment inside of the compound.

16 BY MR. SAPHIER:

17 Q And does all the equipment include the backup
18 generators?

19 MR. GROSSMAN: Well, he=s already testified about
20 that. He said that they would endeavor, if they had to use
21 the backup generators, to put them inside but if there are
22 other, if there are other occupants there, they may not be
23 able to get it inside and then for that brief period of time
24 when there was a backup generator operating, it would have
25 to be outside of the compound.

1 MR. SAPHIER: That is allowable then?

2 MR. GROSSMAN: That would be allowable under those
3 circumstances unless it=s prohibited by a condition.

4 MR. SAPHIER: Okay. Thank you.

5 MR. GROSSMAN: Sure.

6 BY MR. SAPHIER:

7 Q You were talking about the coverage gaps. You
8 don=t need to put up the -- actually, I=m going to want to
9 look at it later. You were talking about the coverage gaps
10 and you mentioned, and I quote, we, unquote, have. You
11 don=t work at T-Mobile, correct?

12 A I am a contractor. I work for, I=m employed by
13 Network Building & Consulting. We are contracted by T-
14 Mobile.

15 Q So you, personally, don=t have a gap. So it=s not
16 a gap that we have, it=s a gap that T-Mobile has.

17 A It is a T-Mobile gap.

18 Q Okay. So when you said our need, you meant T-
19 Mobile=s need.

20 A I, I -- sure.

21 Q Okay.

22 A I=ve been on the project for six years. It feels
23 like a we.

24 Q I understand. Okay. Exhibit No. 42, which we
25 don=t have up here, but what is the date of it?

1 MR. GROSSMAN: What is Exhibit 42? Oh, you=re
2 talking about the plans. Those are the site plans.

3 MR. SAPHIER: Yes.

4 MR. GROSSMAN: He=s --

5 MR. SAPHIER: What=s the date of that exhibit?

6 MR. GROSSMAN: The date of the, of the
7 modification is December 16, 2011. It was received in our
8 office a number of days later.

9 MR. SAPHIER: That is No. 42?

10 MR. GROSSMAN: Yes.

11 MR. SAPHIER: Okay. Thank you. That answered
12 that question then. Thank you.

13 BY MR. SAPHIER:

14 Q Looking at this one, which is Exhibit No. 64, the
15 existing on-air coverage, this line right here, what is that
16 line?

17 MR. GROSSMAN: The line right here being a line
18 running east to west along --

19 MR. SAPHIER: I=m sorry.

20 BY MR. SAPHIER:

21 Q The line alongside of the, of the exhibit running
22 completely across east to west. The wiggly line up here.

23 A That appears to be Route 198.

24 Q And the line that=s running north to south near
25 the west side here is?

1 A That appears to be New Hampshire Avenue.

2 Q Okay. And the line that=s running on the east
3 side kind of southwesterly from the top right corner down to
4 here is?

5 A You=re referring to Old Columbia or Route 29.

6 Q Route 29. Thank you. Okay. So these towers, not
7 counting the one you=re proposing, are on, primarily, these
8 main roads, is that correct?

9 A That is correct.

10 Q The tower you are proposing is not on a main road,
11 is that correct?

12 A That is correct.

13 Q Okay. And I don=t believe you testified to it but
14 someone else mentioned it but I=m going to ask you. What is
15 the diameter of the tower?

16 A The, what is the proposed diameter for this, for
17 the proposal?

18 Q Uh-huh.

19 A I want to make sure you weren=t asking one of the
20 other ones.

21 Q Sorry.

22 A No problem. This, this tower has not yet been
23 ordered. However, a standard tower, and I don=t see any
24 reason why this wouldn=t be at the standard diameters, it=s
25 approximately 42 inches at the base tapering up to

1 approximately 30 inches at the top.

2 Q And the base is going to have some other
3 attachments to it to make it even wider, is that correct?

4 A I mean, the base of the pole will have coax, like
5 I said earlier, there=s the point at the bottom where the
6 coax comes out. That is all screened by the fence.

7 Q All right. In the pictures that you had up there,
8 66 and beyond, I=m not a trained person but it seems to me
9 that the simulated towers that you did in some of the
10 pictures were not the same width as the balloon. And in
11 particular, I=m talking about, I believe it=s (c). Yes.
12 You don=t have on the board the picture of the balloon from
13 that site but you have it here. It=s in the original I
14 believe.

15 MR. GROSSMAN: I have it. It=s in the record.

16 BY MR. SAPHIER:

17 Q You have the balloon there and you have the tower.
18 And looking at those two, to my naked eye, they are not the
19 same width.

20 A They look reasonably similar to me. The are
21 supposed to be reasonably similar. They base the --

22 MR. GROSSMAN: How wide is the balloon? What=s
23 the diameter?

24 THE WITNESS: Thirty-six inch balloon.

25 MR. GROSSMAN: All right. And --

1 THE WITNESS: Six inches wider than the top of the
2 tower would actually be.

3 MR. GROSSMAN: Okay.

4 MR. SAPHIER: Thank you.

5 BY MR. SAPHIER:

6 Q We talked about Ms. Stine submitting some
7 documentation later that these pictures were not aimed at
8 the tower, but I'm going to address one of them right now.
9 You agree that in order to see the picture, see the tower
10 rather, or the balloon, I'm sorry, it's a balloon test, in
11 order to see the balloon, you must point the camera at it.
12 Would you agree with that?

13 A Yes.

14 Q Okay. Just making sure here. Okay. Let's take a
15 look at (a) which, this is 66, I believe?

16 MR. GROSSMAN: Yes.

17 BY MR. SAPHIER:

18 Q Okay. And (a) is the picture of Cabin Creek and
19 Perrywood Drive. And this picture is taken in what
20 direction of Cabin Creek Drive?

21 A That was taken from --

22 Q If we have to help you here --

23 A -- from the north looking south.

24 Q From the north looking south. Okay. And Cabin
25 Creek Drive is on the left of the picture, is that correct?

1 Starting in the left --

2 A Yes.

3 Q -- the left, bottom left corner --

4 A Yes.

5 Q -- and working towards the center of the picture,
6 is that correct?

7 A Yes.

8 Q So you=re actually looking across Cabin Creek
9 Drive from this picture, is that correct?

10 A You are looking -- again, going off of pictures
11 that I did not personally take. So that is there.

12 Q Cabin Creek.

13 A You=re standing here and Cabin Creek --

14 Q Cabin Creek is right here.

15 A Cabin Creek curves off to the left up there and
16 you=re looking past where it curves off.

17 Q And from this view of the picture, the street is
18 going from your left in front of you and moving towards you
19 right. It=s moving from the bottom left-hand corner, I=m
20 starting to block your view there, bottom left-hand corner
21 of the picture and towards the center of the picture and it
22 would keep going and would eventually exit to the right --

23 A No. It curves into --

24 Q I=m saying if the road would have continued.

25 A Oh, I=m sorry.

1 Q I=m sorry. I=m sorry. My mistake.

2 A No problem.

3 Q If the road would continue in this direction, it
4 would keep going and exit off of that, is that correct? And
5 as a result, you are looking across -- you=re looking south
6 so the road is generally south but you=re also looking,
7 since you=re looking across the road, you=re also looking a
8 little bit towards the east, is that correct?

9 A You=re looking -- again, judging from the -- that
10 looks mostly south to me.

11 Q Look at the picture. It=s mostly south but it=s a
12 little bit to the east, agreed? It=s definitely not to the
13 west, agreed?

14 A It is not to the west.

15 Q Okay. So that is here on the picture where the
16 site map, this is the dot at Cabin Creek and Perrywood that
17 represents where this picture was taken, is that correct?

18 A (No audible response.)

19 Q And if we go due south, we are, one inch
20 represented 5 or 600 feet, we are about 600 feet to the east
21 of the site, are we not?

22 A Where you are looking here is, that is beyond the
23 curve which would be over there. This is looking more
24 straight down.

25 Q Okay. That=s what I just did.

1 A Well --

2 Q Due south in this picture from that intersection,
3 we=re approximately 500 feet, an inch being about 500 feet,
4 about 500 feet due east of the site. And we indicated that
5 we=re actually going, turned a little bit towards the east
6 and not the west so you=re actually pointing --

7 A I didn=t --

8 Q -- the camera more than that away from the site.

9 A Again, he could not find the balloon from that
10 location and he took a picture that was as close as he could
11 find to represent where he should be looking. When you
12 can=t find the balloon, it=s very difficult to see. You
13 don=t have a visual point at which you=re looking. You=re
14 looking for that which you can=t see.

15 MR. GROSSMAN: Dr. Saphier, once again, I=m going
16 to leave the record open. You can certainly, welcome to go
17 to this location and take a picture.

18 MR. SAPHIER: Well, the balloon is not there now
19 but I actually have a picture taken from that location that
20 I=d be happy to enter into the record right now.

21 MR. GROSSMAN: All right. Why don=t you wait
22 though until you=re, until you=re testifying because we=re
23 going to have to have you authenticate it.

24 MR. SAPHIER: Okay. That=s fine.

25 BY MR. SAPHIER:

1 Q Okay. So but then you agree that at least in this
2 one instance, the camera may not and indeed was not pointed
3 at the balloon.

4 A I don=t agree that it wasn=t. I don=t -- again, I
5 can=t tell you exactly where the balloon should be on there
6 because you can=t see the balloon.

7 Q But what if you could see the balloon?

8 A I believe if my graphic artist could see the
9 balloon, he would have taken a picture of the balloon.

10 Q And the balloon was waving in the wind?

11 A Not very, not enough to make the test inaccurate.

12 Q Okay. So a picture that says that you can=t see
13 the balloon when you can see the balloon is inaccurate, is
14 it not?

15 MR. GROSSMAN: Yes, but he=s -- I think you=ve
16 pursued this as far as you can. He=s already answered.

17 MR. SAPHIER: Fair enough. Fair enough.

18 MR. GROSSMAN: He thinks it=s pointing in the
19 general direction. The balloon is not visible so it=s hard
20 to know exactly if it=s in that precise direction.

21 MR. SAPHIER: Okay.

22 BY MR. SAPHIER:

23 Q In the packet that T-Mobile sent to us, I believe
24 I gave a copy to you --

25 MR. GROSSMAN: Yes.

1 BY MR. SAPHIER:

2 Q -- we have this picture of a sample tower.

3 A Correct.

4 Q What color is that to you?

5 A White.

6 Q Okay. So sample towers are not always brown or
7 gray. According to T-Mobile, they're white sometimes.

8 A Certain -- yes. There are, there are towers that
9 are white, there are towers that are brown, there are towers
10 that are gray.

11 Q Okay. I'm just going to quickly look and make
12 sure I didn't miss anything.

13 MR. GROSSMAN: We can, if this is granted, we can
14 include a condition requiring a certain color if the
15 community has a particular feeling about that.

16 MR. SAPHIER: Yeah. I'm pretty sure that we
17 would. Okay. That's all. Thank you very much.

18 MR. LEEGER: Is there anybody else who would like
19 to question? I don't want to miss anybody.

20 MR. GROSSMAN: All right. Seeing no other hands,
21 any redirect?

22 MR. DONOHUE: A couple things, Mr. Chairman, but
23 I'm going to be pretty quick here. I'm going to go right
24 from the question earlier about the photo simulations.

25 REDIRECT EXAMINATION

1 BY MR. DONOHUE:

2 Q Mr. Chaney, who took the photographs of the
3 balloon fly on January 14th?

4 A My graphic artist at NB&C called, by the name of
5 Dan Tulley.

6 MR. GROSSMAN: I=m sorry. Dan?

7 THE WITNESS: Dan Tully, T-U-L-L-Y. That=s the
8 name of the graphic artist.

9 BY MR. DONOHUE:

10 Q And I think you testified that he works for NB&C,
11 is that correct?

12 A That is correct.

13 Q Do you know how long he=s worked there?

14 A Dan, Dan=s been there multiple years now.
15 Probably five years.

16 Q Has he done other balloon tests?

17 A Numerous.

18 Q Has he done other balloon tests with photo
19 simulations as we=re showing here?

20 A Numerous, yes.

21 Q Some of the photo simulations, some of the
22 photographs show the balloon, is that correct?

23 A Yes, they do.

24 Q And in certain cases where it=s a little difficult
25 to discern what you=re looking at, he put an arrow, is that

1 correct?

2 A That is correct.

3 Q So is it your understanding that Mr. Tulley was
4 instructed to photograph the balloon where he could get
5 photographs?

6 A Yes, sir.

7 Q And is it your understanding that his instructions
8 were to produce, as accurately as possible, photographs and
9 photo simulations?

10 A Those were the instructions that I gave him.

11 Q Did he give you any indication from the January
12 14th balloon fly that those instructions were abandoned or
13 not followed?

14 A No, sir.

15 Q Okay. Let=s talk about Montgomery County Public
16 Schools. It was explained to us that Banneker Middle
17 School, somewhere between a third and half a mile to the
18 east, is considered, at least by some, to be an option for a
19 potential site. So let=s start with the general question
20 does T-Mobile have antenna facilities on Montgomery County
21 Schools properties?

22 A Yes, they do.

23 Q So you=ve entered into leases, you=ve done
24 construction, you=ve built sites on MCPS properties?

25 A Yes, sir.

1 Q Have you also been denied by MCPS from installing
2 on school properties?

3 A Yes, sir.

4 Q I believe you explained that there were three in
5 discussion, that were in some level of lease negotiations
6 when that practice stopped, is that correct?

7 A Yes, sir.

8 Q And those were what type of schools?

9 A Middle school, middle school and a high school I
10 believe.

11 Q Would T-Mobile be open to MCPS sites and would T-
12 Mobile contemplate something as is proposed here, a stealth
13 design, at a school=s property?

14 A We=ve, we=ve proposed that to the MCPS multiple
15 times.

16 Q In fact, T-Mobile has done stealth designs as
17 proposed here, is that correct?

18 A Yes, sir.

19 Q But your testimony is that MCPS, at the present
20 time, is not considering new applications -- well, what is
21 MCPS=s policy if you know?

22 A MCPS=s policy, at this point, they simply are not
23 interested in leasing for standalone facilities, and that=s
24 evidenced by the fact that they continue to withdraw from
25 applications.

1 Q Would, if you know, would MCPS entertain a stadium
2 light pole such as at Sherwood High School, something like
3 that?

4 A They've entertained that multiple times.

5 Q So at a stadium-type facility, that might be a
6 viable option.

7 A Uh-huh.

8 Q Okay.

9 A That is correct.

10 Q Last question, Mr. Chaney. If you know, the
11 meeting that was conducted with the community back in the
12 summer, do you know the date of that meeting?

13 A That was in early August.

14 Q All right.

15 A Early to mid-August.

16 Q And do you know the nature of that meeting? Do
17 you know what was discussed? Do you know what was conducted
18 at the meeting?

19 A There was -- we had a community meeting where we
20 were, we had photo simulations and propagation maps and were
21 ready to discuss all of the normal community meeting items
22 such as that, and there was only one person that attended.

23 Q The photo simulations that were previously
24 submitted and the photos that were used at the summertime
25 meeting, the August meeting, were they shown, were they

1 taken during a time when there were leaves on the trees?

2 A Yes, they were.

3 Q So that the photographs we're looking at here
4 produced from January of 2012 without leaves on the trees is
5 a bit more bare bones if you will.

6 A Right.

7 Q In other words, the site is more visible at the
8 present time.

9 A This is as visible, as far as the tree cover goes,
10 as visible as the site could be.

11 Q Is it your testimony that the January 14th photo
12 simulations are more probative of the real view,
13 particularly in wintertime?

14 A Yeah.

15 Q Perhaps than your other submitted photos?

16 A Yes.

17 Q Thank you very much.

18 MR. DONOHUE: That's all I have, Mr. Chairman.

19 MR. GROSSMAN: Any recross as a result of that
20 redirect? I see one hand. Dr. Saphier, do you want to come
21 forward? Just limited to the redirect questions.

22 RECROSS-EXAMINATION BY MR. SAPHIER

23 BY MR. SAPHIER:

24 Q You said that at the August meeting, there was
25 only one person attending.

1 A Yes.

2 Q You also testified earlier, I can go back to the
3 earlier testimony, to --

4 MR. GROSSMAN: Just on what=s on the redirect.

5 MR. SAPHIER: Yes. That=s what I plan to do.

6 Thank you.

7 BY MR. SAPHIER:

8 Q You only sent out notices to the adjoining and
9 confronting neighbors and you listed a grand total of five
10 if I remember correctly, and two of which were I think
11 companies. So you listed three households and I think two
12 companies so those are the only notices that you sent out,
13 is that correct?

14 A Notices were sent out to the adjacent and
15 confronting property owners and to all of the civic
16 organizations on the list we were provided by M-NCPPC which
17 I believe was about 50.

18 Q There are not 50 civic organizations in the --

19 MR. DONOHUE: Objection.

20 BY MR. SAPHIER:

21 Q -- neighborhood but that=s testimony. I
22 apologize.

23 MR. DONOHUE: Objection.

24 MR. GROSSMAN: Okay. All right. Before you call
25 your next witness, it=s now 1:26 on that clock, or actually

1 1:23 I think about real time but in any event, why don=t we
2 break for lunch here. There is a cafeteria right down at
3 the end of the hall so if anybody wants to get lunch. And
4 so shall we come back at 2:15 here? Does that sound
5 reasonable? Yes, Doctor.

6 MR. SAPHIER: It=s reasonable, but the one witness
7 I mentioned about a 4 o=clock appointment, can I tell him to
8 be here at 2:15 and then we can take him out of order
9 perhaps?

10 MR. GROSSMAN: All right. Any objection to that?

11 MR. DONOHUE: I do object. We=re going to
12 continue with our case, Mr. Chair.

13 MR. GROSSMAN: All right. I=m going to overrule
14 that objection and I=ll take the witness out of turn.

15 MR. DONOHUE: Thank you very much.

16 (Whereupon at 1:24 p.m., a luncheon recess was
17 taken.)

18 MR. GROSSMAN: Dr. Saphier, is your witness
19 available?

20 MR. SAPHIER: Yes.

21 MR. GROSSMAN: All right. Sir, what=s your name,
22 please?

23 MR. REID: Jim Reid.

24 MR. GROSSMAN: All right. I understand you=re in
25 a narrow window of time that you=re available?

1 MR. REID: Yes, sir. Thank you for --

2 MR. GROSSMAN: All right. Mr. Jews, would you
3 move over and we're going to let Mr. Reid testify out of
4 order.

5 (Discussion off the record.)

6 MR. GROSSMAN: Sir, will you state your full name,
7 please?

8 MR. REID: Yes. Jim Reid, R-E-I-D.

9 MR. GROSSMAN: All right. R-E-I-D?

10 MR. REID: Yes, sir.

11 MR. GROSSMAN: And your address?

12 MR. REID: 11028 Harding Road. That=s in Laurel,
13 Maryland.

14 MR. GROSSMAN: All right. Would you raise your
15 right hand, please?

16 MR. REID: Sure.

17 (Witness sworn.)

18 MR. GROSSMAN: All right. You may proceed if you
19 have a statement to make.

20 DIRECT EXAMINATION

21 THE WITNESS: Okay. Well, again, my --

22 MR. SAPHIER: You want to ask him questions first?

23 MR. GROSSMAN: No.

24 THE WITNESS: Okay. Again, my name is Jim Reid
25 and I am a real estate agent and have specialized in this,

1 the neighborhood Fairland Gardens for probably 20 to 23
2 years now. I=ve been in the business for over 25. And I
3 sell a number of the homes in this neighborhood. The past
4 two years, I=ve sold seven out of the eleven homes that were
5 sold in this neighborhood. In the peak of the market, the
6 houses were going for a little over 700,000 average.

7 MR. GROSSMAN: I take it you don=t live in this
8 neighborhood.

9 THE WITNESS: No, sir.

10 MR. GROSSMAN: Okay.

11 THE WITNESS: Just explaining just a little bit
12 about the neighborhood.

13 MR. GROSSMAN: Okay.

14 THE WITNESS: Of course with the market and
15 everything right now, they=re just under 500, 500,000 so
16 there=s been a drop in the home values of 30 percent. And I
17 know that putting a cell tower up in this community, in this
18 neighborhood, will adversely effect --

19 MR. GROSSMAN: Well, hold on a second. You=re
20 about to offer an opinion.

21 THE WITNESS: Yes, sir.

22 MR. GROSSMAN: And in order to offer an opinion,
23 you are going to have to be qualified as an expert to do so,
24 all right?

25 THE WITNESS: Okay.

1 MR. GROSSMAN: So do you have a resume or some
2 evidence of your background?

3 THE WITNESS: I didn=t know I had to bring one. I
4 tried to explain to you the length of time that I=ve been a
5 real estate agent in the community.

6 MR. GROSSMAN: All right. The way --

7 THE WITNESS: I=d be happy --

8 MR. GROSSMAN: The way the process works with an
9 expert witness is we look first at the qualifications of the
10 person to testify as an expert in the specific area that
11 they=re designated, and so what happens is a process called
12 a voir dire in which the witness is questioned as to his
13 expertise after he states whatever he wants to state about
14 his expertise and use the area in which he wishes to testify
15 as an expert. And so we have to go through that process
16 first in order for you to testify and give expert opinion on
17 something.

18 THE WITNESS: I see.

19 MR. GROSSMAN: So let=s start out again. You=ve
20 been a real estate agent since when?

21 THE WITNESS: Since 1986.

22 MR. GROSSMAN: Okay. And what=s your educational
23 background?

24 THE WITNESS: I have a business degree in
25 marketing and management.

1 MR. GROSSMAN: What kind of business degree?

2 THE WITNESS: A BS degree.

3 MR. GROSSMAN: In marketing?

4 THE WITNESS: And management.

5 MR. GROSSMAN: And where is that from?

6 THE WITNESS: The University of South Carolina.

7 MR. GROSSMAN: And when was that?

8 THE WITNESS: You=re dating me now, aren=t you?

9 MR. GROSSMAN: We=ve all got that problem. I
10 think mine is more severe than yours probably.

11 THE WITNESS: 1981.

12 MR. GROSSMAN: Okay. All right. And do you have
13 any other educational experience beyond that?

14 THE WITNESS: As formal education, no, sir.

15 MR. GROSSMAN: And what did you do after you got
16 your degree? Did you have any other, anything related to
17 what you=re about to testify?

18 THE WITNESS: No, sir.

19 MR. GROSSMAN: Okay. So then you first became a
20 real estate agent in 1986. I take it you are licensed in
21 the state of Maryland?

22 THE WITNESS: Yes, sir.

23 MR. GROSSMAN: And when did you obtain your
24 license in the state of Maryland?

25 THE WITNESS: December of 1986.

1 MR. GROSSMAN: And you=re still licensed in
2 Maryland?

3 THE WITNESS: Yes, sir.

4 MR. GROSSMAN: Now, you said you sold seven of the
5 eleven homes in this, in the area of the subject site?

6 THE WITNESS: Yes, sir. In the neighborhood, last
7 two years.

8 MR. GROSSMAN: All right. How many homes have
9 you, well, let=s say, let=s start out with how many homes
10 have you sold that are in the area of a cell tower?

11 THE WITNESS: Well, seven of the, I=m being very
12 narrow, seven of the last eleven homes in the area of the
13 cell tower I sold.

14 MR. GROSSMAN: Well, I=m talking about -- I
15 thought you meant seven of the eleven homes in the area of
16 this site.

17 THE WITNESS: Yes, sir.

18 MR. GROSSMAN: I=m asking you have you sold any
19 homes in an area of a cell tower that exists?

20 THE WITNESS: Oh, thank you. No, sir.

21 MR. GROSSMAN: All right. Have you done any
22 studies of the value of property or the cost of property
23 around cell towers?

24 THE WITNESS: Just information that I=m picking up
25 from sites that are talking about this issue. I just happen

1 to have one that I just pulled up but --

2 MR. GROSSMAN: Well, you mean --

3 THE WITNESS: But we have -- go ahead.

4 MR. GROSSMAN: In other words, you went to the
5 internet and did a search?

6 THE WITNESS: Yes.

7 MR. GROSSMAN: Okay.

8 THE WITNESS: But even before that, there are,
9 there are things, there are, neighborhoods will have what I
10 would say would be eyesores, maybe power lines. Anything
11 that=s obstructive that would impact the enjoyment of a view
12 is going to have an impact and I can only --

13 MR. GROSSMAN: Well, I don=t want you to give your
14 opinion yet because we don=t know yet that you=re accepted
15 as an expert.

16 THE WITNESS: Okay.

17 MR. GROSSMAN: So I=m just trying to cover what
18 your experience is, but you don=t have any experience of
19 selling land or reviewing the sale of land around cell
20 towers.

21 THE WITNESS: No, sir.

22 MR. GROSSMAN: All right. And what are you
23 specifying as the area of expertise that you seek to be
24 certified as an expert in?

25 THE WITNESS: Home values and understanding what

1 helps to improve a home value and what will hurt home
2 values.

3 MR. GROSSMAN: All right. Mr. Donohue, do you
4 have any questions of this witness regarding his expertise?

5 CROSS-EXAMINATION

6 BY MR. DONOHUE:

7 Q Mr. Reid, are you an appraiser?

8 A I'm not an appraiser. I do appraise properties.

9 Q Are you a licensed appraiser in the state of
10 Maryland?

11 A No, sir.

12 Q Are you familiar with the certification required
13 for licensing appraisers in the state of Maryland?

14 A Yes, sir.

15 Q Do you have any contracts for, existing contracts
16 in the neighborhood right now? Do you have listings that
17 you're pursuing at this time?

18 A Yes, sir.

19 Q In the area of interest here? For example, in the
20 area of, within the area shown on the map? What is this,
21 the existing on-air coverage?

22 MR. GROSSMAN: The map you're talking about,
23 Exhibit 64.

24 THE WITNESS: I have a home that's currently on
25 the market in the neighborhood.

1 BY MR. DONOHUE:

2 Q Mr. Reid, if you=ll permit me, were you hired by
3 the neighbors to come in here today and give your testimony?

4 A Thanks for asking. No.

5 Q Okay. I don=t mind. Between graduation in 1981,
6 you=ve been a realtor you said since 1986 to the present
7 time, correct?

8 A Yes, sir.

9 Q Who are you employed by?

10 A Llewellyn Realtors.

11 Q To Ls I guess?

12 A Yes, sir.

13 Q And where is that based, Laurel?

14 A No. It=s based in Rockville.

15 Q Okay.

16 MR. DONOHUE: Mr. Chairman, we have an expert in
17 real property valuation. We=re going to offer him as a
18 witness this afternoon. With all due respect, I don=t think
19 Mr. Reid=s expertise or his training, education rise to the
20 level of an expert in property valuation. I know what that
21 looks like because I=m looking at the CV of a man who is the
22 appraiser, so I=m going to object to him, his qualification
23 as an expert.

24 MR. GROSSMAN: All right. Let me see if other
25 people have questions of this witness regarding his

1 expertise. Anybody else have questions regarding this --
2 Dr. Saphier, would you want to come forward and you can sit
3 there.

4 MR. SAPHIER: I can=t see him but that=s okay.

5 CROSS-EXAMINATION BY MR. SAPHIER

6 BY MR. SAPHIER:

7 Q In your experience, you=ve seen what in the
8 neighborhood could lower or raise the value of the property
9 value of a house, right?

10 A Yes, sir.

11 Q So if somebody were to put something, cell tower,
12 telephone lines, something else, maybe a main road going by
13 the house, you would have a good, expert knowledge of how
14 that would affect the property value for that sale of that
15 house.

16 A That=s correct.

17 Q And if they were to paint it or do something else,
18 you would know how that would improve the value of the
19 house.

20 A If they were to paint?

21 Q Paint the house inside or the outside.

22 A Oh, certainly.

23 Q So in general, given the house and what=s around
24 it, you know what around it, from 25 years of expert
25 opinions and expert --

1 MR. DONOHUE: Objection.

2 BY MR. SAPHIER:

3 Q Twenty-five --

4 MR. GROSSMAN: That=s called leading the witness.

5 MR. DONOHUE: Yes, it is.

6 MR. SAPHIER: He did that a lot this morning.

7 MR. GROSSMAN: No.

8 MR. SAPHIER: Okay.

9 BY MR. SAPHIER:

10 Q In 25 years of selling houses, then you have
11 gained a tremendous amount of knowledge as to what will or
12 will not increase or decrease the value of a house that=s
13 around that house?

14 A That=s correct.

15 MR. GROSSMAN: That=s still, that=s still the same
16 question. Go ahead.

17 THE WITNESS: Yes.

18 BY MR. SAPHIER:

19 Q Okay. Would you personally consider yourself an
20 expert in determining the value of a house?

21 A Yes, I would.

22 Q Okay.

23 MR. GROSSMAN: Okay. We have Mr. Reid offered as
24 an expert witness in home values and what will help or hurt,
25 as he describes it, the value of a home. I understand the

1 objection from Mr. Donohue and it may be that that goes more
2 to the weight of the testimony to be given here than whether
3 or not I will listen to his testimony, so I will allow Mr.
4 Reid to testify as an expert in home values and what will
5 help or hurt.

6 I should mention that an expert in legal
7 proceedings is not necessarily somebody who has a degree.
8 It is somebody who can offer testimony which is beyond the
9 akin of laymen and can be of assistance to the fact finder
10 in making his or her decision, and so that=s why I=m going
11 to accept his, accept him as an expert as he described in
12 home valuation and what will help or hurt.

13 MR. DONOHUE: If the man=s prepared a report or if
14 he=s got something we can review, we=d like to see that.

15 MR. GROSSMAN: I will certainly ask him that. Do
16 you have a report, Mr. Reid?

17 THE WITNESS: I just have the one article that I
18 pulled off and he can --

19 MR. GROSSMAN: I=m not going to accept an article
20 that you=ve gotten off the internet per se because I don=t
21 know anything about the author or sources. I don=t think
22 that would be fair. But have you produced a report?

23 THE WITNESS: No, sir.

24 MR. GROSSMAN: All right. Well, so what did you
25 want to say about, in your testimony? Now you can move to

1 the substance of your testimony.

2 DIRECT EXAMINATION (Continued)

3 THE WITNESS: Okay. Thank you, sir. Well, in the
4 25 years that I=ve worked in, as a real estate agent, I work
5 with buyers and I work, obviously, with sellers and when I
6 work with buyers, I=m also talking at them about as we look
7 for property, keep in mind that in five, six, seven years,
8 you=re going to want to sell that property. And so as we=re
9 looking at different homes, we=re also looking with an eye
10 to the future, what is going to impact the value of that
11 home in a favorable way or what=s going to impact it in a
12 negative way.

13 Obviously, I don=t make decisions for the buyers
14 but we certainly, I certainly am going to offer what I
15 believe is good counsel in helping them to make a decision
16 on one house or another based on the attributes in the home
17 but also around the area. For instance, if a property is on
18 a corner, busy corner, I=m going to indicate that that could
19 have an impact and to be careful. We look at different
20 things that are going to -- we work with buyers to just make
21 sure that they=re getting the best value they can or at
22 least that they would understand.

23 MR. GROSSMAN: But let=s get to this circumstance.
24 That=s what we=re interested in.

25 THE WITNESS: Okay. Well, this circumstance, when

1 I worked with sellers in this neighborhood, we spent a lot
2 of time sprucing up the home to get it to where it=s going
3 to be in the best possible shape so that we can attract as
4 many buyers as we can. The issue or the concern I have is
5 that there are many homes that are on the market, not only
6 in this area but all in Burtonsville/Silver Spring, that
7 buyers can choose from. And what I know as a real estate
8 agent is if a home sits on the market and does not sell,
9 then we are, at some point, reducing the price until it does
10 sell.

11 And I can tell you that if someone comes into a
12 neighborhood and they see a cell tower, that=s going to
13 negatively impact them as far as their desire to want to buy
14 that home. There are many other homes out there. At least
15 they=re going to stop and see what other options there are
16 and if that home in the neighborhood that=s impacted by the
17 cell tower that=s on the market sits on the market, the only
18 thing that we can do is adjust the price downward. Price
19 cures everything. I mean, at some point, we can price the
20 home. It will sell even with a cell tower. But I believe
21 that neighborhood is going to be impacted dramatically in
22 terms of the values because there are other homes that
23 buyers can, can purchase that would not have that type of a
24 setting, that view being obstructed by a high tower.

25 MR. GROSSMAN: Now, your testimony refers to any

1 cell tower? Any cell tower that --

2 THE WITNESS: Well, it=s 115 feet, yes. I think
3 that that=s going to have an impact on people considering
4 that particular home to purchase because they=ll see that
5 and it will ruin their enjoyment of the view that they have.
6 They=re probably going to look at other homes.

7 MR. GROSSMAN: Now --

8 THE WITNESS: And if it sits on the market, that
9 home, the only thing that we can do is adjust the price
10 until people would be willing to buy that home.

11 MR. GROSSMAN: Right. But what I=m asking you is
12 your testimony goes to essentially any cell tower that=s of
13 a significant height, 100 feet or above, something in that
14 area, is that correct?

15 THE WITNESS: Any cell tower that=s going to have,
16 obstruct someone=s view or be something that would be --
17 I=ve seen them all over.

18 MR. GROSSMAN: Right.

19 THE WITNESS: It=s just not a really pleasant view
20 and if you=re moving into a neighborhood, that may not be --

21 MR. GROSSMAN: And what about this particular cell
22 tower. Are you familiar with the design of this particular
23 cell tower?

24 MR. DONOHUE: Have you been to the property, Mr.
25 Reid?

1 MR. GROSSMAN: No. I'm asking questions.

2 THE WITNESS: I just, I just sold a home two doors
3 down from the property so I know where the property is but,
4 no. I've not been to the property but I know where it's --

5 MR. GROSSMAN: Let's get back to this particular
6 cell tower. Do you know anything about the design of this
7 cell tower? You're looking at a photograph now.

8 THE WITNESS: Yes.

9 MR. GROSSMAN: But that's not a photograph of this
10 cell tower so.

11 THE WITNESS: Okay.

12 MR. GROSSMAN: So Mr. Leeger showed it to you but
13 it's not a photograph of this cell tower.

14 MR. LEEGER: Oh, I thought you were referring to
15 that style. I apologize.

16 MR. GROSSMAN: Okay. This cell tower hasn't been
17 built yet so I'm asking you whether your questions or your
18 answers address this particular cell tower or just cell
19 towers in general of this general height.

20 THE WITNESS: I think cell towers in general of
21 this height.

22 MR. GROSSMAN: Have you, do you know how close or
23 far this cell tower would be from the, from the homes in the
24 area?

25 THE WITNESS: I -- based on where the property is,

1 where it=s going to be, I have a general idea where it=s
2 going to be, yes.

3 MR. GROSSMAN: And how close do you think it is
4 from the closest home to the proposed cell tower location?

5 THE WITNESS: Well, if it=s the property that sits
6 in the back, you have properties right in front. That=s the
7 older home in the back, so it=s probably going to be 50
8 yards, 60 yards. I don=t know the exact site but --

9 MR. GROSSMAN: If it=s a greater distance, would
10 that make a difference in terms of its impact on the
11 valuation?

12 THE WITNESS: I don=t think so. If, even if it
13 was 100 yards but you see the -- if that=s what you=re
14 backing up to and you=re looking at a property that=s in
15 that general area, that may not be what you would consider
16 as a good investment if you=re a home buyer.

17 MR. GROSSMAN: And if the cell tower is 377 feet,
18 proposed cell tower is 377 feet from the closest residence,
19 does that impact on your, on your evaluation of its impact.

20 THE WITNESS: Sir, if it was 377 feet and I
21 believe 115 feet high, and we=re looking at properties that
22 are backing to that and the view that they would have, I
23 think it would have a negative impact, yes, sir.

24 MR. GROSSMAN: No, but I=m asking you whether the
25 distance. You talked about a smaller distance. I=m asking

1 you if that greater distance to the closest residence would
2 make a difference in terms of your evaluation of the impact
3 of the cell tower.

4 THE WITNESS: No, sir.

5 MR. GROSSMAN: So it doesn't matter how far the
6 cell tower is from your house.

7 THE WITNESS: No, but you said 377 feet, right?

8 MR. GROSSMAN: Yes.

9 THE WITNESS: I don't think that distance is, is
10 far enough away that it isn't going to have an impact on
11 those houses.

12 MR. GROSSMAN: Okay. Cross-examination, Mr.
13 Donohue?

14 CROSS-EXAMINATION

15 BY MR. DONOHUE:

16 Q Let's talk about the particular site, Mr. Reid. I
17 think you said you were in the neighborhood. You had a sale
18 or a listing here recently.

19 A Uh-huh.

20 Q Right. Do you know the size of the parcel that
21 the subject property -- the proposal is to be located on
22 what's known as the Gibson property. Do you know the size
23 of that parcel?

24 A No, sir.

25 Q Do you know anything about the topography in the

1 neighborhood?

2 A Yes, sir.

3 Q How would you characterize the topography?

4 A Well, it=s, from the beginning of the
5 neighborhood, it generally slopes down.

6 Q How would you characterize the tree cover in the
7 neighborhood?

8 A Well, there=s some, in the back, there=s, you have
9 some, you=re going to have some trees along the way there=s
10 a drainage.

11 MR. LEEGER: Do you want me to put it up?

12 MR. DONOHUE: Would you, please? Thank you.

13 MR. LEEGER: Have to find which one it is.

14 MR. DONOHUE: Thank you.

15 MR. LEEGER: Is that the one you=re looking for?

16 MR. DONOHUE: Yes. Thanks very much.

17 BY MR. DONOHUE:

18 Q Mr. Reid, earlier, we introduced this. This is a,
19 obviously, an aerial photo of the general vicinity. I know
20 you=re familiar with it.

21 MR. GROSSMAN: That=s Exhibit 63.

22 BY MR. DONOHUE:

23 Q And the Google icon there that shows the
24 approximate location of the compound is part of the Gibson
25 property.

1 A Uh-huh.

2 Q Would you be able to characterize the vegetation
3 that surrounds that, that compound as I've described it?

4 A Well, these are trees.

5 Q Yes, they are.

6 A Uh-huh.

7 Q So does tree cover and topography make a
8 difference when we're talking about a visual impact?

9 A Tree, obviously, trees are -- when I looked back
10 and I saw the house very recently, it backs up to the deck.
11 Because it's so big and where you'll be, I think you will
12 still see and have a --

13 Q I'm just asking, the Chair asked you whether
14 distance made a difference and he asked you about 377 feet.
15 And you said well, if it's visible, then, no, that distance
16 wouldn't change my view. I'm asking you given just the
17 aerial view, whether tree cover and topography would reflect
18 a change in your view. In other words, do you think this
19 would be a visual impact based on -- let's look to the west
20 of the compound. Is there visibility from the west?

21 A Coming down to the branch off down here?

22 Q No. This is oriented north is up, right?

23 A Okay.

24 Q So you're doing a great job. I don't mean to take
25 over your position. But if the compound, as has been

1 described by me, it=s approximately in this location.

2 A Uh-huh.

3 Q And I=m asking you whether these --

4 MR. GROSSMAN: This location being where the red
5 dot is on Exhibit 63.

6 MR. DONOHUE: Yes.

7 BY MR. DONOHUE:

8 Q I=m asking you whether the tree cover here, all
9 these trees, would mitigate the visibility from, say these
10 homes over here. I don=t know what the neighborhood is
11 called. Maybe you know.

12 MR. GROSSMAN: So the tree cover you referred to
13 is to the west of the subject location and the homes are
14 also further to the west.

15 THE WITNESS: It would depend on the height of all
16 the trees.

17 BY MR. DONOHUE:

18 Q Okay. Height, distance, topography.

19 A And obviously, and obviously, time of year.

20 Q Hum?

21 A Obviously, in the wintertime when the leaves are
22 down.

23 Q But it would change things, right?

24 A That tower would be --

25 Q Based on distance, based on intervening things

1 such as trees and topography. That=s what I was saying. Do
2 you agree?

3 A Okay.

4 Q Okay. The statement that you made about the
5 devaluation of property in the area struck me. I believe, I
6 wrote it down, there=s been some 30 percent drop in property
7 values in the neighborhood.

8 A From the high of, the peak of the market until
9 now.

10 Q And when we=re talking about, I characterize it as
11 a neighborhood, what geographical area were you talking
12 about?

13 A This particular neighborhood.

14 Q Roughly where? East, west, north and south. What
15 area are we talking about?

16 A This particular neighborhood, Fairland Gardens. I
17 don=t understand.

18 Q Has seen a hit of 30 percent --

19 A I=m talking about --

20 Q -- in values?

21 A That=s correct.

22 Q Okay. Without the cell tower.

23 A That=s because of the market, yes.

24 Q So it=s already had a 30 percent drop in value.

25 A That=s correct.

1 Q The Chair asked you earlier had you sold
2 properties in proximity to cell towers, and I believe you
3 said no.

4 A No.

5 Q But you did testify that you see them, I think you
6 said I see them everywhere.

7 A I see -- yes, I do.

8 Q The towers that you=re describing, do you have any
9 idea what heights those towers are?

10 A No, sir.

11 Q What type of structure do you see? When I see
12 cell tower, what type of structure do you think about?

13 A Well, I think of a tall and -- a number of them
14 have, are made to look like trees.

15 Q Yes. Do you know what design is proposed for this
16 facility?

17 A I just have this picture, sir. Is that it?

18 Q You haven=t seen the plans. You don=t know --

19 A No, sir.

20 Q -- what=s proposed.

21 MR. GROSSMAN: Just so -- this picture refers to a
22 photograph which I don=t, it=s attached --

23 MR. DONOHUE: It=s part of the -- I=m sorry.

24 MR. GROSSMAN: It=s part of the package --

25 MR. DONOHUE: Right.

1 MR. GROSSMAN: -- that was attached to Exhibit 61
2 and it=s a white singular pole.

3 MR. DONOHUE: Right.

4 MR. GROSSMAN: The pole proposed here is of
5 similar physical design but would be colored brown or dark
6 gray or something to blend in better.

7 MR. DONOHUE: Right.

8 BY MR. DONOHUE:

9 Q In other words, we don=t have a picture of this
10 pole because it=s not approved or built but that=s a, that=s
11 a similar type design. Mr. Reid, on January the 14th, we
12 flew a balloon at the Gibson property to try to demonstrate
13 what the height would look like, allow folks an opportunity
14 to go around, take pictures, and we took pictures, and some
15 of the pictures you see up there on the board.

16 And we did some photo simulations to kind of
17 represent what we think the facility would look like from
18 certain distances, and there=s a legend there in the middle
19 that shows where those pictures were taken from. And I
20 don=t know whether you, maybe you want to go a little closer
21 but I don=t know whether you can see the balloon in any of
22 these photographs.

23 MR. GROSSMAN: Mr. Reid, feel free to stand up and
24 take a look at the photographs closer.

25 BY MR. DONOHUE:

1 Q For example, on, this is photo (i-1). The balloon
2 is --

3 MR. GROSSMAN: 66(i-1).

4 MR. DONOHUE: Right. Exhibit 66.

5 BY MR. DONOHUE:

6 Q The balloon is a red kind of weather balloon.

7 A Uh-huh.

8 Q And it=s tethered to a space on the ground where
9 the compound is proposed to go on the Gibson property.

10 There are some of them where we=ve indicated that we don=t
11 believe it can be seen but this is, you may want to take a
12 look, the legend shows where those photos were taken from.

13 A What was the question? I=m sorry to shut up but I
14 didn=t hear the question.

15 MR. GROSSMAN: That=s a fair point. What=s the
16 question?

17 MR. DONOHUE: I=m allowing him a chance to take a
18 look at it.

19 MR. GROSSMAN: Okay.

20 BY MR. DONOHUE:

21 Q How would you characterize the trees between the
22 houses in the foreground and the weather balloon as I
23 described it in the background on (i-1) in that exhibit?

24 A The trees have lost their foliage. Is that what
25 you mean?

1 Q Yes.

2 A Okay.

3 Q And the balloon is visible through the trees would
4 you say?

5 A Oh, it=s clear.

6 Q It=s clear. Is it visible above the trees or is
7 it visible through the trees?

8 A It would be through the trees.

9 Q And what about the one say in the upper left
10 that=s photograph (a), photograph (b), and those are taken
11 from the north, northwest and northeast of the subject site.
12 Do you see where it=s indicated that --

13 A Where=s the first --

14 Q Do you see where it=s indicated it=s not visible
15 from those homes?

16 A Okay.

17 Q Right.

18 A Okay.

19 Q So would those homes have an adverse impact from
20 the cell tower, the unipole?

21 A I believe they would and I=ll explain.

22 MR. GROSSMAN: All right.

23 THE WITNESS: Because if we have a home or a home
24 is on the market and that home, the cell tower is visible
25 and it doesn=t sell and the price is dropped, well, your

1 expert opinion who will be coming who is going to be
2 appraising homes, they=re going to be looking at area
3 comparables. And if you have a home that=s been impacted,
4 any other home in that neighborhood, when they pull up the
5 comps, they=re going to look at that as a basis for what the
6 value of other neighborhood homes are on the market, so it
7 would have an impact.

8 BY MR. DONOHUE:

9 Q Okay. Does this neighborhood have water and
10 sewer?

11 A Yes, it does.

12 Q And school service?

13 A Yes.

14 Q Electric? Telephone?

15 A (No audible response.)

16 Q So --

17 MR. GROSSMAN: You have to answer yes or no, sir.

18 THE WITNESS: Yes. I=m sorry.

19 MR. GROSSMAN: The court reporter is taking
20 everything down.

21 THE WITNESS: I see.

22 BY MR. DONOHUE:

23 Q So there are utilities in the neighborhood
24 obviously, right?

25 A Yes.

1 Q Wireless service is seen by some as a utility. Is
2 it fair to say that there are some who would see it as a
3 value to see enhanced wireless coverage in their house?

4 A Sure.

5 Q So some may see it as an enhancement.

6 A That=s correct.

7 Q Thank you.

8 A The only other question I would have is --

9 Q You don=t get to ask questions.

10 MR. GROSSMAN: No, you don=t, but we will ask if
11 there=s anybody else who wishes to cross-examine. We=ll
12 start out on the left. Mr. Coles, would you come forward
13 here and have a seat at the table and ask any cross-
14 examination questions of the witness you have.

15 MR. COLES: Yeah. I just have a few questions.

16 CROSS-EXAMINATION BY MR. COLES

17 BY MR. COLES:

18 Q Thanks for coming. I appreciate you showing up
19 today. It helps out a lot. Have you ever shown a property
20 this near a cell phone tower or other type of utility that
21 has a visual structure to it?

22 MR. GROSSMAN: Well, wait a minute. Hold on one
23 second. When you say this near, what do you mean by that?

24 BY MR. COLES:

25 Q Have you ever shown a property, a house, not sold

1 one, shown, had a list, not even had a listing but showed
2 the listing to a perspective buyer that is near a cell tower
3 or other form of utility that is a visual structure?

4 A Yes.

5 Q When you showed that listing or whatever multiple
6 listings you've shown, has there ever been any concern from
7 a perspective buyer?

8 A Yes.

9 Q Was it negative or positive?

10 A It was negative.

11 Q And why?

12 A Well, a couple things. I'm thinking of the
13 electrical power lines. Many people have had a concern just
14 for the visual and also for health and safety reasons.

15 MR. GROSSMAN: When you say electrical power
16 lines, you're talking about just neighborhood power lines or
17 you're talking about the --

18 THE WITNESS: No. I'm talking about the big --

19 MR. GROSSMAN: -- big Pepco, major towers.

20 THE WITNESS: Yes, sir. Yes, sir.

21 MR. GROSSMAN: Okay.

22 BY MR. COLES:

23 Q So there's a visual impact is what you're saying
24 that they're concerned about and there's some type of health
25 risk, okay?

1 A Perceived.

2 MR. GROSSMAN: Well, he doesn't know if there=s a
3 risk.

4 MR. COLES: Perceived.

5 THE WITNESS: Perceived health risk.

6 MR. COLES: That=s my next question.

7 MR. GROSSMAN: All right.

8 BY MR. COLES:

9 Q So your, in your expert testimony, there=s a
10 perceived health risk, okay?

11 MR. DONOHUE: Objection. Objection.

12 MR. GROSSMAN: Yes.

13 MR. DONOHUE: The man is not an expert in health
14 effects, and it was explained by the Chair that we have a
15 federal law that deals with the so-called health question.

16 MR. COLES: Yes, but I=m talking about --

17 THE WITNESS: He asked me about perceived.

18 MR. DONOHUE: The man is not an expert.

19 MR. GROSSMAN: Let him finish his objection.

20 MR. DONOHUE: The man is not an expert on health
21 effects. I=m going to object to anything that goes there
22 since he has no qualifications on health.

23 MR. COLES: Okay. Well, I=m not asking that. The
24 question what I asked him was whether or not his perspective
25 buyers had a concern over perceived health risk.

1 MR. GROSSMAN: Right. I consider that a
2 different, a different question. He=s asking -- whether or
3 not their perception is correct or whether or not there=s a
4 federal law, I=m not allowed to make a decision here or a
5 recommendation based on health concerns. However, the
6 witness can testify if the presence, in his experience, of
7 power lines, because of some perception of the, of the
8 people in the area, lowers their valuation of the property.
9 He can testify about that but once again, it=s a narrow,
10 narrow --

11 MR. COLES: It=s --

12 MR. GROSSMAN: -- thing and it=s very difficult to
13 separate out.

14 MR. COLES: I=m going --

15 MR. GROSSMAN: So I really --

16 MR. COLES: I=m going to show how it separates
17 out.

18 MR. GROSSMAN: I=m going to let you ask that
19 question but understand that, I may even think about it more
20 as to whether or not I=ll give it any weight but it would
21 have certainly a reduced weight to me. The question is
22 not --

23 MR. COLES: Well, I=ll show you how it separates
24 out.

25 MR. DONOHUE: Mr. Chairman, before you do, I think

1 he=s got a hearsay problem in any event. You=re asking him
2 to give an opinion based on his dealings with a buyer,
3 potential buyer, based on what he thinks their perceptions
4 are on a facility that=s unrelated to the facility we=re
5 talking about here today. We=re pretty far attenuate.

6 MR. GROSSMAN: Well, it=s not really hearsay
7 because he=s not offering it to prove the truth of what the
8 declarant said. The declarant, theoretically here, has said
9 that I=m not going to like this place because there is a
10 tower that, and I fear health effects. He=s not offering it
11 to prove the truth that it would have health effects. He=s
12 offering it to show that this is the basis for which, the
13 reason for which he has an opinion and so it=s not really a
14 hearsay issue because it=s not technically hearsay. But in
15 any event, I=m going to let him answer that question with
16 that caveat, that I am not going to make any recommendation
17 based on health concerns because that would be a violation
18 of the federal law, the preemption by federal law.

19 All right. So you=ve heard the question.

20 THE WITNESS: Could you repeat the question?

21 MR. DONOHUE: That should be easy, right?

22 MR. COLES: Yeah.

23 BY MR. COLES:

24 Q Well, let me ask it this way.

25 MR. GROSSMAN: You=re going to change it now?

1 BY MR. COLES:

2 Q Basically the question was, the original question
3 was what was the outcome based upon the perspective buyer=s
4 perceived notion that there were health effects?

5 A What buyers are always wondering is if there=s an
6 impact here and the impact is, is there any health concerns
7 that we should be concerned about. And many times when we
8 walked out and they go this, they=re looking at it, just
9 shake their head and they say we want to go somewhere else,
10 let=s look at something else.

11 Q And so if they, when they go -- let me ask you
12 this. So does that affect the pool of buyers that you=ve
13 had with this certain listing that=s near a --

14 A Absolutely.

15 Q Can you categorize that saying there=s less
16 demand?

17 A There=s less demand. Q And what does less
18 demand do to the value of a property?

19 A It=s going to reduce the value of the property.

20 Q Okay. And if it reduces the value of that
21 property, it was your testimony earlier that if that
22 property value is reduced and it sells, it can affect the
23 surrounding --

24 A Absolutely.

25 Q -- the values in the surrounding neighborhood.

1 A Absolutely.

2 MR. GROSSMAN: Let me explain the problem with
3 this whole line of questioning. Once again, essentially,
4 this witness's testimony is directed to any cell tower of
5 any significant height and once again, the law says that I
6 am not permitted, based on the inherent characteristics of a
7 cell tower, to recommend denial of a special exception. It
8 is an inherent characteristic of a cell tower that it has a
9 significant height and that it=s visible, you know. It=s
10 typical of cell towers. So that whole line of questioning
11 goes to that general proposition. The question I have to
12 deal with is are there any non-inherent characteristics of
13 this proposed cell tower that would impact on the community.

14 So that=s the problem with, you know, the impact
15 of Mr. Reid=s testimony. I understand the essence of what
16 he=s saying is that cell towers visible from your
17 neighborhood have an impact on valuation. Well, that=s
18 clearly part of the Council=s evaluation when they decided
19 nevertheless, to allow cell towers in residential areas with
20 certain restrictions. They have very significant setback
21 restrictions and they have other requirements in terms of
22 how it=s located so as to minimize visibility. So I --

23 MR. COLES: So I can ask --

24 MR. GROSSMAN: That=s why, I=m trying to not waste
25 too much time going down the road that really can=t yield

1 something for me to evaluate.

2 MR. COLES: Then I can ask a couple questions
3 about non-inherent?

4 MR. GROSSMAN: You absolutely can ask some
5 questions.

6 MR. COLES: Okay.

7 MR. GROSSMAN: I=m not precluding you from asking
8 it. I=m just saying that I don=t want us to go too far down
9 this road that=s not going to be productive.

10 MR. COLES: No, we=re not. Because I was about
11 wrapped up but you gave me another idea.

12 MR. GROSSMAN: Okay.

13 MR. COLES: So I appreciate that.

14 MR. GROSSMAN: All right.

15 MR. COLES: Thank you.

16 BY MR. COLES:

17 Q Mr. Reid, are you familiar with the home that I
18 live in, 2817 Cabin Creek Drive?

19 A Yes.

20 Q And are you aware that with this petition for a
21 special exception for T-Mobile to construct a tower, that
22 they would need to use an easement that my property grants
23 the Gibsons to access their location for this new tower and
24 the construction of that tower and maintenance of that
25 tower?

1 A Yes.

2 Q Since you're an expert, been deemed an expert,
3 would that use of that easement in the manner that I just
4 described, construction, maintenance, repair, would that be
5 a positive impact on my property, a negative impact or no
6 change?

7 MR. GROSSMAN: I'm not going to let him answer the
8 question in that form because it assumes -- he wasn't here
9 for the earlier evidence as to what the construction and
10 maintenance consists of, nor does he indicate that he is an
11 expert in easements. Have you ever had that situation in
12 terms of easements, Mr. Reid?

13 THE WITNESS: No, sir.

14 MR. GROSSMAN: And do you know what the
15 maintenance, usual maintenance is of a cell tower?

16 THE WITNESS: No, sir.

17 MR. GROSSMAN: I don't think he can answer it from
18 that, in that form.

19 MR. COLES: Okay. All right. Well, I'm out of
20 brain power.

21 MR. GROSSMAN: Okay.

22 MR. COLES: Thank you.

23 MR. GROSSMAN: It's a good question though. All
24 right. Yes, sir. Dr. Saphier.

25 MR. SAPHIER: Stewart Saphier.

1 CROSS-EXAMINATION BY MR. SAPHIER

2 BY MR. SAPHIER:

3 Q Perhaps I can rephrase his question for you, all
4 right? A cell tower needs maintenance. It needs to have
5 trucks to come in and maintain it.

6 MR. GROSSMAN: You can=t give him a speech. You
7 -- this is cross-examination of a witness.

8 MR. SAPHIER: I apologize.

9 MR. GROSSMAN: You can state your question.

10 BY MR. SAPHIER:

11 Q Would the maintenance of a cell tower affect the
12 adjoining property values, meaning that if the maintenance
13 goes across a driveway, would it affect the property values
14 of who owns that driveway?

15 MR. GROSSMAN: Once again, it=s the same problem.
16 I=ll let it go to the weight. I=ll let him answer the
17 question but it goes to the weight. He doesn=t know what
18 the maintenance is and I don=t know that he can really
19 answer so, an effective answer.

20 THE WITNESS: Yeah. I don=t know what the
21 easement restrict, you know, what the restrictions are on
22 the driveway but the concern I would have as a potential
23 homeowner is just the damage of the driveway with having
24 vehicles if that=s what=s being used to go back and forth.

25 BY MR. SAPHIER:

1 Q You mentioned earlier, only you weren=t allowed to
2 ask it, that you had a question. What is that question?

3 A Oh, the question I had was I saw the cell service
4 and, and I know that it=s T-Mobile is wanting to increase
5 their cell service but there are other cell providers.

6 MR. DONOHUE: Objection, Mr. Chairman.

7 MR. GROSSMAN: Let him finish his statement, then
8 we=ll see if --

9 THE WITNESS: And if, and if the residents are
10 able to enjoy service with another provider, then it=s not
11 a, it=s not a real important issue, only to T-Mobile.

12 MR. GROSSMAN: I=ll sustain the objection. It=s
13 not within your field but it=s also not something that we
14 can consider. That is each provider has the right to apply
15 for a special exception to have a cell tower so that they
16 can provide service to their customers. So whether or not
17 there are others around that provide an equivalent service
18 is not an issue that I can consider.

19 THE WITNESS: Well, let me go back because what
20 he --

21 MR. GROSSMAN: Well, now there=s no question.

22 THE WITNESS: What the gentleman said was --

23 MR. GROSSMAN: There=s no question pending before
24 you now, Mr. Reid, so I don=t know that you can go back.

25 BY MR. SAPHIER:

1 Q Has anything that=s been said here today changed
2 your opinion as to whether or not cell towers in general and
3 other characteristics of other equipment and other objects
4 would affect negatively the value of property values?

5 MR. GROSSMAN: Well, I=m not going to -- once
6 again, that=s a misleading question because he was not here
7 for any of the testimony that=s been said today. Anything
8 that has been said today have been questions that he=s
9 heard, have been questions that have been asked of him so I
10 think it=s misleading to ask a witness who has not heard any
11 of the testimony whether anything said here today has
12 influenced his --

13 MR. SAPHIER: I didn=t mean it that way. You=re
14 right. I apologize, Mr. Chairman.

15 BY MR. SAPHIER:

16 Q Anything said while you were here today changed
17 your opinion?

18 MR. GROSSMAN: Once again, there was nothing said
19 -- he was not here for any of the testimony. He was only
20 here for questions that were asked him.

21 MR. SAPHIER: Okay. I thought that the cross-
22 examination would --

23 MR. GROSSMAN: No, but a question is not a, does
24 not supply testimony that he can rely on.

25 MR. SAPHIER: Fair enough.

1 BY MR. SAPHIER:

2 Q So your testimony is that cell towers --

3 MR. GROSSMAN: No, no, no. You can=t, you can=t
4 summarize his testimony unless it=s part of a question.

5 MR. SAPHIER: Okay.

6 BY MR. SAPHIER:

7 Q Can you summarize briefly what your testimony is?

8 A My, the summary is that the cell tower will have a
9 negative impact on property values. We=ve discussed
10 visibility, and there will some homes that will be impacted
11 greater than other homes in the community but those homes,
12 when they=re on the market, that will have an impact on the
13 value of those homes and that will, in turn, as appraisers
14 use the comp of that sale, it=s going to have an impact on
15 that community as far as the value of the properties.

16 Q And this includes any cell tower that=s visible
17 from any house within the neighborhood?

18 A That=s correct.

19 MR. GROSSMAN: All right. Ms. Stine? Our
20 procedures are a little bit different than you might
21 ordinarily face in a courtroom in that we have lots of
22 people who are considered interested parties who get to ask
23 questions, so you get many sources of questions. Ms. Stine,
24 go ahead.

25 MS. STINE: Lisa Stine.

1 CROSS-EXAMINATION BY MS. STINE

2 BY MS. STINE:

3 Q You mentioned that there are utilities in this
4 neighborhood. Are they above-ground or below-ground
5 utilities?

6 A They=re below ground.

7 Q Are there any telephone poles and wires running
8 through the streets?

9 A No.

10 Q Thank you.

11 MR. GROSSMAN: All right. I think that=s it then.
12 I thank you very much, Mr. Reid, for taking your valuable
13 time and coming down here.

14 THE WITNESS: Thank you.

15 MR. GROSSMAN: I appreciate it greatly helping us
16 out. All right. Call your next witness, Mr. Donohue.

17 MR. DONOHUE: Thank you, Mr. Chairman. Mr. Curtis
18 Jews is an RF, or radio frequency, engineer with T-Mobile.
19 We submitted his resume way back when. Mr. Jews has been
20 qualified as an expert witness in RF propagation and network
21 design. I believe he=s been qualified before you.

22 MR. GROSSMAN: Before me a number of times, yes.

23 MR. DONOHUE: So we can review the resume if you=d
24 like. I=d like to submit him as an expert witness.

25 MR. GROSSMAN: All right. First of all, Mr. Jews,

1 would you raise your right hand?

2 MR. DONOHUE: Sorry.

3 (Witness sworn.)

4 MR. GROSSMAN: All right. And, yes. I'm very
5 familiar with Mr. Jew's qualifications. He has testified
6 before and perhaps it would be good, since we have a roomful
7 of people here, for you to outline your background and
8 education and experience.

9 DIRECT EXAMINATION

10 THE WITNESS: Sure. I am the lead radio frequency
11 design engineer for T-Mobile. I have been working as a
12 radio frequency design engineer for 12 years, designed over
13 2,000 sites. I have a certification in field technology
14 computer services. I received that in 1996. I have
15 designed sites in various places within the United States
16 and outside of the United States. That's pretty much it in
17 a nutshell.

18 MR. GROSSMAN: And you have testified as an expert
19 before me and other hearing examiners?

20 THE WITNESS: Yes, I have. I have been recognized
21 as an expert in various jurisdictions.

22 MR. GROSSMAN: Anybody have questions regarding
23 Mr. Jew's qualification to testify as an expert in radio
24 frequency engineering? Yes, sir. Come forward, please.

25 MR. KARZAI: My name is Hameed Karzai.

1 MR. GROSSMAN: All right, Mr. Karzai.

2 CROSS-EXAMINATION BY MR. KARZAI

3 BY MR. KARZAI:

4 Q I'm sorry. You said you had a certification.

5 Exactly what does that mean?

6 A Basically, it's a certification. And I started
7 off my studies in computer circuitry and then moved into the
8 data collection part of wireless communications, data
9 collection for our CW testing, things of that nature, site
10 design.

11 Q So but in terms of like, you know, a degree, where
12 would you, how does that fall? Is that like a bachelor's
13 degree in --

14 A No. That is a certification.

15 Q How many months or years?

16 A It was a total of two years.

17 Q Two years continuous?

18 A That's correct.

19 Q So it's a two year -- and from what institution?

20 A At the time, it was at TESST College, a community
21 college, in 1996.

22 Q I see. Okay.

23 MR. GROSSMAN: Anybody else? Ms. Stine? This is
24 only as to Mr. Jew's qualifications.

25 MS. STINE: Lisa Stine.

1 CROSS-EXAMINATION BY MS. STINE

2 BY MS. STINE:

3 Q As a requirement of your certification, could you
4 please tell us what your continuing education requirements
5 are?

6 A Well, it is up to my discretion to continue my
7 education as far as working towards MEE which is an
8 electrical engineering degree. But as I stated, I have
9 continued to work in the industry for 12 years and obviously
10 continuing, and I've taken various forms of different
11 training to continue to, I guess, grow with the technology
12 and all the other things that --

13 Q I was specifically inquiring because many
14 professional certifications require ongoing continuing
15 education, a certain number of hours each year that is
16 mandated by that certification, and that=s specifically what
17 I was inquiring about.

18 A Understood.

19 Q Not things that you choose to take.

20 A Understood. But this, as far as my career, does
21 not make that a requirement. It is not something that is
22 required of me to --

23 Q So that=s to maintain that certification through
24 the organization which you received it, you are not required
25 to take any continuing education.

1 A No other courses.

2 Q Okay. Thank you.

3 A No classes.

4 MR. GIBSON: I wanted to ask her something.

5 MR. GROSSMAN: Well, no. You can=t ask her
6 because she=s not the witness now. The only, you can only
7 ask the witness questions, Mr. Gibson.

8 MR. GIBSON: Oh.

9 MR. GROSSMAN: All right. Seeing no other hands,
10 I=ll accept Mr. Jews as an expert in radio frequency
11 engineering.

12 DIRECT EXAMINATION

13 BY MR. DONOHUE:

14 Q Curtis, you explained that your present employment
15 is with T-Mobile, is that correct?

16 A That=s correct.

17 Q And your job title at the present time is what?

18 A I am the radio frequency lead design engineer.

19 Q How many RF, or radio frequency, engineers work
20 under you as lead?

21 A Right now I have five.

22 Q All right. So in your capacity as the lead, you
23 are managing network as well, is that fair?

24 A I am a manager, that=s right.

25 Q But also involved in your own sites, your own

1 design?

2 A That is correct.

3 Q You're familiar with the network design we're
4 talking about here at Gibson property, correct?

5 A Yes.

6 Q And you heard Mr. Chaney explain that, in his
7 terms, he thinks he's an RF engineer, Mr. Chaney explain
8 what the site was intended to cover but we're going to go
9 into that a little bit. We're going to ask you to amplify
10 what Mr. Chaney said. But to begin with, would you agree
11 with what Mr. Chaney said in terms of objectives for the
12 site?

13 A Yes. As far as the coverage objectives, yes.

14 Q And what are those coverage objectives?

15 A It's to improve the in-building coverage in the
16 area that we're, the proposed tower location, also improve
17 the in-vehicle coverage along Briggs Chaney Road, pretty
18 much the surrounding areas of Columbia Pike and Briggs
19 Chaney.

20 Q The propagation maps that were shown up there
21 earlier, and I'm going to get them back up here, you're
22 familiar with the propagation maps?

23 A Sure.

24 (Discussion off the record.)

25 BY MR. DONOHUE:

1 Q Mr. Jews, this is Exhibit 64 shown up in the upper
2 right corner, correct?

3 A That=s correct.

4 Q And Mr. Chaney explained to us what those, I want
5 to call them the handoff sites but what those adjacent sites
6 are. Would you explain again what the, what=s shown here on
7 64?

8 A Okay. Once again, we=re looking at, on Exhibit
9 64, existing on-air coverage. Let me explain the colors
10 once again. Green represents your in-building coverage, the
11 coverage you can expect inside your home or business. The
12 blue represents in-vehicle coverage, the coverage that you
13 can expect within your vehicle or car. And on-street
14 coverage is the coverage you can expect as walking on the
15 street holding your phone to your ear or using your hands-
16 free.

17 MR. GROSSMAN: And just to satisfy my curiosity,
18 why was there a switch in the color code between the ones
19 that were filed in Exhibit 10 showing the height studies
20 and --

21 THE WITNESS: I believe those particular prop maps
22 were done in 2008/2009.

23 MR. GROSSMAN: Okay.

24 THE WITNESS: So obviously, those are quite a few
25 years ago, so that=s why the color changed so sorry about

1 that.

2 MR. GROSSMAN: So you are now permanently in the
3 current --

4 THE WITNESS: I=m married to green, blue and
5 yellow.

6 MR. GROSSMAN: All right.

7 BY MR. DONOHUE:

8 Q So, Curtis, in layman=s terms, the strongest
9 signal, the most reliable signal as shown on that Exhibit 64
10 would be, is shown in the green, correct?

11 A Yes. That=s correct.

12 Q So for example, if I go northwest of the Gibson
13 site to WAN, is it 368?

14 A Yes.

15 Q Right. So the green showing, surrounding that
16 site is a robust signal strength. Is that a fair statement?

17 A That=s fair.

18 Q Right. And it is, that reflects in-building you
19 say?

20 A That=s in-building. Green is in-building.

21 Q And the technical, the design criteria for in-
22 building is, what level is that?

23 A NEG 76 devium (phonetic sp.).

24 Q So that the site shown as WAN 291, the Gibson
25 property, right, you were showing there without coverage,

1 right?

2 A That=s correct.

3 Q Okay.

4 A And there=s a predominant showing of yellow which
5 is your on-street coverage.

6 Q The propagation maps originally prepared here, the
7 ones that the Chair asked way back in the morning hours, had
8 to do with some lowered heights. Can you explain to the
9 Chair and to the room why those lower heights were studied?

10 A Well, one, we wanted to make sure that -- well,
11 first, from the initial design, I try to find the lowest
12 height that I can use that will still enable us, meaning T-
13 Mobile, to make or meet or exceed our coverage objective.
14 But we=re also asked to see if we can go lower, can we still
15 get our coverage objective if we go lower. And I, I found
16 that I could not. Obviously, there=s going to be a
17 reduction because the height is smaller but because of the
18 terrain of the area is another reason why I turned down the
19 use of NEG 95 (phonetic sp.); and I=ll get to that later on.
20 Can I move this?

21 Q Yes.

22 MR. GROSSMAN: Yes. Well, I think it would be --
23 do you have blowups of the four exhibits 10(a) through (d)
24 that showed the height comparison?

25 THE WITNESS: I do but mine are, I would have to

1 use yours. Mine are on monochrome.

2 MR. GROSSMAN: Okay. All right. Well, I think it
3 would be helpful if you had a blowup of it to show because I
4 would want you to explain to me -- it seems to me that the
5 point made by the Tower Committee seems to be borne out on
6 your two maps, the one at 95 feet compared to the one at
7 115. I see that there is increased coverage from the 75-
8 foot level but it=s hard for me to see any significant
9 increase from the 95 to 115-foot level.

10 THE WITNESS: Understood. Once again, I go back
11 to those maps were created in 2008/2009.

12 MR. GROSSMAN: Right.

13 THE WITNESS: Obviously, they=re old. But what is
14 also out of date or old is the propagation model that we
15 were using. We continue to always update the propagation
16 model so they show as much accurate coverage, coverage
17 predictions.

18 MR. GROSSMAN: All right.

19 THE WITNESS: So the model used there wasn=t as
20 sophisticated as here, that we are now using.

21 MR. GROSSMAN: Well, do you have, do you have
22 propagation maps at the different heights that have been
23 done on the new model?

24 THE WITNESS: I do not. I do not have those
25 today.

1 MR. DONOHUE: Mr. Chairman, I'm going to ask you
2 to put up the proposed coverage.

3 MR. GROSSMAN: All right.

4 BY MR. DONOHUE:

5 Q Get the next map up, would you, Curtis?

6 A Sure.

7 MR. DONOHUE: I'm going to ask him to explain in
8 the technical standpoint, first of all, why those additional
9 heights were prepared for the Tower Committee and also to
10 articulate in his words, not just what=s shown on the pretty
11 pictures, but what it means from the customer experience.

12 MR. GROSSMAN: All right.

13 BY MR. DONOHUE:

14 Q So, Curtis, what are we looking at here in 65?

15 A Okay. This is the existing on-air coverage, the
16 current T-Mobile on-air coverage with the proposed site if
17 it is on-air with the existing coverage.

18 Q Right. And I asked you to look at the prop maps,
19 the 2008 prop maps that reflect these lowered heights as
20 requested by the Tower Committee.

21 A That=s correct.

22 Q And I'm going to ask you to give your opinion as
23 the lead engineer as to what, for example, a 95-foot RAD
24 center would do to the signal strength from WAN 291.

25 A Okay. Obviously, this, this being the green, will

1 decrease or shrink the current radius of this site. Will
2 shrink. But also, this location is chosen because the
3 elevation here is a lot higher than here. What happens is
4 as you start --

5 MR. GROSSMAN: You have to explain what the here
6 is that you're referring to.

7 THE WITNESS: Here, sorry. Okay. If you travel
8 south, let's say west or west of the proposed location, the
9 ground elevation starts at this end, it starts to go down.
10 And what happens is there's called a shadowing effect where
11 the coverage kind of does a drop-off and that's what you're
12 seeing here, here being southwest or west of the proposed
13 location where you see this showing of yellow. And what
14 will happen is as the antenna height lowers, this
15 degradation that you see here will be worsened.

16 MR. GROSSMAN: The degradation that you see in the
17 yellow area you mean?

18 THE WITNESS: That's correct. That will start to
19 move to the east coming towards Briggs Chaney Road. So the
20 in-vehicle -- what you see, you see spots of blue and
21 yellow, but what will happen is this yellow will start to
22 come back onto Briggs Chaney Road.

23 MR. GROSSMAN: Okay.

24 BY MR. DONOHUE:

25 Q Mr. Jews, Mr. Chaney explained earlier on or

1 alluded to the handoff, the handoff between sites that=s
2 shown there on the prop map.

3 A Uh-huh.

4 Q Explain to the Chair what=s meant by the handoff
5 signal.

6 A Okay. The handoff. These are neighboring sites
7 and while you=re on a phone call as you=re traveling along
8 or walking along, these sites have to communicate to each
9 other which we call handoffs or hand-overs. That=s what
10 this site, WAN 291, will do with the neighboring sites. It
11 will hand off.

12 Q Does a lowered height at 291 or at Gibson
13 property, does a lowered height affect handoff?

14 A Possibly it will, yes.

15 Q We=ve had a lot of discussion about the, used the
16 aerial photo a number of times about the tree cover and
17 topography in the area.

18 A Yes.

19 Q Does tree cover and topography affect signal
20 propagation as well?

21 A Yes, it does.

22 Q Can you explain?

23 A What happens is as the radio waves traverse or
24 travel through the atmosphere, there are certain losses as
25 far as atmospheric losses, also losses as far as clutter and

1 trees that the radio waves will experience.

2 Q So one of the considerations from RF then is the
3 tree cover and topography, correct?

4 A That=s correct.

5 Q In order that the signal can make that traverse,
6 make that handoff to the adjacent site, correct?

7 A That=s correct.

8 Q Is it your testimony, Mr. Jews, that the proposed
9 height, 115 feet, is minimally necessary in order to meet T-
10 Mobile=s objectives?

11 A Yes.

12 Q You heard it explained, again by Mr. Chaney, about
13 co-location.

14 A Right.

15 Q And Mr. Chaney explained that the compound, in
16 fact we show, we, T-Mobile, shows future carriers within the
17 compound. What=s the requirement for co-location in the
18 County if you know?

19 A To be able to house two additional carriers.

20 Q And does the proposed facility meet that
21 requirement?

22 A Yes.

23 Q And do you know, is there interest, do we know if
24 there=s other carriers interested in co-location on this
25 site?

1 A I do not know.

2 Q Okay. How does that work, if you know?

3 A As far as their interest?

4 Q How does the availability of the site become
5 apparent to other carriers?

6 A I'm not aware of that process.

7 Q Okay. Fair enough. Mr. Jews, we talked about the
8 Tower Committee. You're familiar with that process, are you
9 not?

10 A Yes, I am.

11 MR. GROSSMAN: Before you go to the Tower
12 Committee, just on the other carriers issue, do you have
13 familiarity with the way in which other carriers do their
14 maintenance operations, how frequently that they have to do
15 maintenance?

16 THE WITNESS: I can only assume it's slightly
17 similar. I have worked for other carriers in my past and I
18 really don't see too much of a difference in the way we do
19 things and the way they will do things.

20 MR. GROSSMAN: All right. Go ahead, Mr. Donohue.

21 MR. DONOHUE: In my view, they tend to visit the
22 golf course locations a lot more than the other sites but
23 that's just, that's just my opinion.

24 MR. GROSSMAN: We won't necessarily include that
25 in the evidence but you are bound by it by rule, by statute.

1 MR. DONOHUE: And I=d stand by it.

2 BY MR. DONOHUE:

3 Q The question of co-location is, I believe you said
4 we do meet that County requirement, is that correct?

5 A Yes, we do.

6 Q Okay. So I guess I was asking about the Tower
7 Committee. Curtis, you=re familiar with the Tower Committee
8 and how it works?

9 A Yes, I am.

10 Q And what, in your words, what=s the role of the
11 Tower Committee in this special exception process?

12 A To justify our need. To, to make a decision if we
13 truly, would the proposed site, is it truly needed and
14 really needed, just to be as basic as possible.

15 Q Yes. Does the Tower Committee ask about co-
16 location?

17 A Yes, they do.

18 Q And you can explain. How --

19 A No, sure. They want to make sure the wireless
20 facility that we=re proposing to build is co-locatable or is
21 able to house other carriers if we use it. So it=s not that
22 we=re just building it for ourselves making the situation to
23 where someone will have to build another pole next to us,
24 that they can also co-locate on the pole we=ve chosen to
25 erect.

1 MR. GROSSMAN: Was that the sense of your question
2 or were you asking about whether or not --

3 MR. DONOHUE: Slightly different question.

4 MR. GROSSMAN: Right.

5 BY MR. DONOHUE:

6 Q Earlier, the question was couldn't T-Mobile co-
7 locate on another tower.

8 A Oh, yeah.

9 Q Aren't there towers in the area that would allow
10 for co-location --

11 A Yes.

12 Q -- to remove the need for new construction at
13 Gibson.

14 A Yes.

15 Q Is that the role of the Tower Committee?

16 A Yes.

17 Q And would T-Mobile ask that question when this was
18 filed?

19 A Yes. Yes. Sorry. Misunderstood. But that is
20 the first thing we look. We look for existing structures.

21 Q For your own co-location.

22 A That's correct.

23 Q I asked Mr. Chaney to go on the east side of
24 Gibson so let me take you to the west side.

25 A Uh-huh.

1 Q Would you be able to characterize, would you be
2 able to tell us what those sites are west of Gibson starting
3 up in the northwest?

4 A I have my notes.

5 Q Yes. Sure.

6 A It might be on the other side over here. Under
7 there. Thanks. All right. What would you like to know?

8 Q I want you to, if you can, I want you to tell us
9 what, first of all, are those on-air sites?

10 A Yes, they are. These are on-air sites.

11 Q So those are approved and built facilities?

12 A They=re taking commercial traffic at this time.

13 Q And can you tell us what they are in terms of the
14 nature of the installation?

15 A Sure. Would you like --

16 Q Sure. Whatever you like.

17 A Okay. WAN 128A is an existing monopole. WAN 368B
18 is a flagpole. WAN 005A is a monopole. WAN 058 is a
19 building, a building. WAN 285K is an existing monopole.
20 WAN 019, I don=t have that one. WAN 004A is an existing
21 monopole. And WAN 20C is a steeple, a church steeple.

22 MR. GROSSMAN: You mean 280C.

23 THE WITNESS: 280C, excuse me. It=s a steeple at
24 40 feet.

25 BY MR. DONOHUE:

1 Q Great. Thank you. Curtis, I'm going to go back
2 to, I want to go back to the Tower Committee. Actually, if
3 you want to take a seat. Do you know when this application
4 went before the Tower Committee?

5 A I don=t know. April of last year?

6 Q More importantly, did the Tower Committee, I
7 believe you said the Tower Committee did recommend approval
8 of the facility, is that correct?

9 A That is correct.

10 Q Okay. And I'm going to pass you language, a quote
11 taken from the Tower Committee report. The second bullet
12 there. Would you please read the recommendation from the
13 Tower Committee?

14 MR. GROSSMAN: What=s the exhibit number you=re
15 reading off of? I think it was early on in the exhibits.
16 It=s Exhibit 7 I think.

17 MR. DONOHUE: Yes. That=s right.

18 MR. GROSSMAN: All right. And which page are you
19 on now?

20 THE WITNESS: Page 10.

21 MR. GROSSMAN: I=m sorry, page what?

22 THE WITNESS: On 10.

23 MR. GROSSMAN: 10, okay. Page 10. I don=t know
24 if I have a page 10 on mine. I don=t think I have a page 10
25 on whatever was submitted to me in Exhibit 7. So what=s the

1 date of the document you're reading from?

2 MR. DONOHUE: May 6th, 2011.

3 MR. GROSSMAN: All right. And is this the
4 memorandum --

5 MR. DONOHUE: It's the memorandum --

6 MR. GROSSMAN: -- from Margie Williams?

7 MR. DONOHUE: It's the Tower Committee
8 recommendation.

9 MR. GROSSMAN: All right. I'm looking at, the May
10 6th thing I have is the notice of action of May 4. Let me
11 see. Then the next page --

12 MR. DONOHUE: Mr. Chairman, in May of 2011, the
13 Tower Committee reaffirmed its prior recommendation.

14 MR. GROSSMAN: Right.

15 MR. DONOHUE: The original recommendation was
16 dated, the Staff Report was dated August 2008. So the quote
17 that I'm asking Mr. Jews to read from is actually the staff
18 report from August 29, 2008.

19 MR. GROSSMAN: Okay. So that's -- let me just
20 turn to that.

21 MR. DONOHUE: It should be attached to your, the
22 same exhibit.

23 MR. GROSSMAN: Yes. Yes. The page numbers are
24 not consistent with what you're saying. Okay. So I have
25 the August 29, 2008 thing.

1 MR. DONOHUE: You have it. Okay.

2 MR. GROSSMAN: And this is the front page on that

3 or --

4 MR. DONOHUE: It=s the, yes. It is the front
5 page.

6 MR. GROSSMAN: Okay.

7 MR. DONOHUE: It=s the last paragraph on that
8 page.

9 MR. GROSSMAN: Okay.

10 MR. DONOHUE: It begins property is a large tract.

11 MR. GROSSMAN: Yes. I see it.

12 MR. DONOHUE: Okay.

13 BY MR. DONOHUE:

14 Q Go ahead and read that for us, please.

15 A It says based, excuse me, based on our site visit,
16 it appears that the wooded area may screen the monopole
17 quite well from nearly all neighboring residents.

18 Q Okay.

19 A Okay. The applicant provided photos taken at the
20 time of the balloon test which show that the balloon was not
21 visible for most of the nearby residential areas. Since the
22 site is naturally well-screened, T-Mobile reasoned that a
23 tree disguised design for the monopole would not further
24 serve to minimize the impact unipole design proposed for
25 this monopole is not needed. Given what appears to be very

1 limited visibility of the monopole from offsite, we concur
2 with the conclusion.

3 Q Let me ask you a little bit about the design of
4 the pole because it=s in part a combination of site
5 acquisition, site selection and RF design.

6 MR. GROSSMAN: And before you get to that, are you
7 leaving the TFCG report at this point?

8 MR. DONOHUE: Yes, sir.

9 MR. GROSSMAN: Because I have a question. This is
10 the same report I think that says on that same page that
11 you, the last part that you were reading from. It says
12 based on our review of the maps with antennas at the 95-foot
13 level, there does not appear to be a significant difference
14 from the coverage illustrated with antennas at the 115-foot
15 level. And so that, reading that caused me to look at the
16 maps that you supplied in Exhibit 10 and it appears they=re
17 correct. And so far, you haven=t supplied any maps that
18 show different heights differently.

19 MR. DONOHUE: Well, he did give his testimony on
20 that, it did give an answer on that but let me --

21 MR. GROSSMAN: He did.

22 MR. DONOHUE: Let=s explain that.

23 MR. GROSSMAN: But what I=m going to ask you to do
24 while this record is open is to supply me with, using the
25 new algorithms that he has, to supply me with coverage maps

1 contrasting the 115-foot level with the 95-foot level so I
2 can see for myself. And I'll consider your introduction of
3 that, Mr. Jews, as being part of your testimony under oath.

4 THE WITNESS: Okay.

5 MR. GROSSMAN: So I want to make sure we get an
6 accurate portrayal of what this algorithm shows at those two
7 different levels because they are relatively
8 indistinguishable. I agree with the TFCG on the maps that
9 are in the record now in Exhibit 10. All right. So you
10 wanted to go on with your next area.

11 BY MR. DONOHUE:

12 Q I wanted to ask you about the unipole design. I
13 asked Mr. Chaney was that a design consideration or design
14 concession. Are there RF aspects of the unipole design that
15 you want to explain to the Chair?

16 A Well, everything is going to be concealed within.
17 It's going to be inside so no antennas will be exposed, no
18 wiring will be exposed from outside.

19 Q Does that have an impact on the size or shape or
20 signal propagation coming from the proposed facility?

21 A It will not.

22 Q I asked Mr. Chaney and I'm going to ask you the
23 same question, should subsequent carriers want to co-locate
24 on the facility, would they be subject to the requirement
25 that they also locate within the skin of the unipole?

1 A Yes.

2 Q And is it your opinion there is space on the
3 ground for future co-locators?

4 A Yes. There will be room.

5 Q Thank you very much. One second, Mr. Chair. Mr.
6 Jews, the question of Montgomery County Schools came up in
7 earlier question and answering and I asked Mr. Chaney this
8 but you are the expert on network design.

9 A Sure.

10 Q Paint Branch High School is under construction as
11 I=m told and is in proximity of, southeast of the proposed
12 facility along 29. Are you familiar with the Paint Branch
13 High School construction or the facility?

14 A A bit.

15 Q Okay. It was explained that it was somewhere
16 between a third and, .3 and .5 miles --

17 A Southeast.

18 Q -- southeast of Gibson, correct.

19 A Uh-huh.

20 Q Was that within the area of search for T-Mobile?

21 A No. I say no because what I=m trying to do with
22 this location, once again, this location being WAN 291, is
23 provide a better balance of coverage. If I start to move
24 closer southeast or east, this overlap of green, I=m going
25 to start overlapping this green with the other coverage of

1 the other sites. So what I'm trying to do is make good use
2 of this location to serve other areas that are in need.
3 Also, since the ground elevation starts to drop off moving
4 west/southwest, if I continue to move east, this, once
5 again, this yellow, which is your on-street coverage, will
6 start to come back across Briggs Chaney Road and into the
7 neighborhoods here.

8 Q So that degradation that we talked about is going
9 to move --

10 A It will be worsened.

11 Q -- in an east or southeast direction.

12 A That's correct.

13 Q Is it a question of redundancy, too much signal to
14 the east on 29?

15 A That's correct, yes.

16 Q So it's the spatial relationship between that site
17 and the other proposed facilities.

18 A Yes.

19 Q All right. I'm not going to ask you about
20 Banneker because it's not a leaseable site but I did want to
21 ask you about Paint Branch given that it is a high school
22 facility. All right. Were you part of the consideration
23 about searching for towers in the vicinity, co-location
24 towers?

25 A Yes.

1 Q Would you agree with Mr. Chaney=s statement that
2 there were no co-location opportunities, thus renewing the
3 need for new construction at Gibson?

4 A I would agree with that.

5 Q Okay. Thank you, Mr. Jews.

6 MR. DONOHUE: That=s all, Mr. Chair.

7 MR. GROSSMAN: Mr. Jews, if you are permitted to
8 proceed with this cell tower, will you comply with, I should
9 say will T-Mobile comply with all FCC regulations regarding
10 radio frequency emissions?

11 THE WITNESS: Yes, sir.

12 MR. GROSSMAN: All right. Cross-examination. Mr.
13 Leeger? We=ll start out with Mr. Leeger who is at the
14 table.

15 MR. LEEGER: Thank you.

16 CROSS-EXAMINATION BY MR. LEEGER

17 BY MR. LEEGER:

18 Q Mr. Jews, I just have a couple questions if you
19 could clarify.

20 A Uh-huh.

21 Q The cell tower that you have here, 005 --

22 MR. GROSSMAN: Here being?

23 MR. LEEGER: 005A

24 MR. GROSSMAN: Okay.

25 BY MR. LEEGER:

1 Q Which would be north and east of the proposed
2 tower. Where is that piece of property, do you know?

3 A The piece of property? I could not tell you the
4 piece of property but I could tell you the structure. It=s
5 an existing monopole.

6 Q It=s a monopole?

7 A That=s correct.

8 Q So that would not be on the elementary school
9 property right there? That would be to the west of the
10 elementary school?

11 A I believe so.

12 Q You said that this tower, that the property --
13 MR. GROSSMAN: This tower being?

14 MR. LEEGER: I=m looking at the tower being the
15 tower in question.

16 MR. GROSSMAN: The proposed site, okay.

17 MR. LEEGER: 2911. Excuse me, 291I.

18 MR. GROSSMAN: I. It got me too.

19 MR. LEEGER: I=m right here and I can=t see it.

20 BY MR. LEEGER:

21 Q That the property elevation goes down as you move
22 to the west.

23 A That is correct.

24 Q And you have, you=ve been in the area. You did
25 the study, correct?

1 A Uh-huh.

2 Q So I=m assuming then when you come through the
3 parkland, that really is right at the back door of this
4 tower.

5 A Uh-huh.

6 Q The flood zone, the endangered property, the
7 stream, that=s right there. And then you go to the
8 neighborhood right behind it. That property is higher or
9 lower?

10 A That property is higher or lower?

11 Q Yes. You said that the elevation goes down. I=m
12 assuming then that you=re saying --

13 A It=s higher, it=s higher when -- what I=ve noticed
14 it=s higher going to the east and northeast is a bit higher
15 but as you, once again, travel southwest/west it starts to
16 descend.

17 Q Okay. I=d like you to honor us with going through
18 that neighborhood and taking a look.

19 MR. GROSSMAN: Well, that=s not --

20 MR. LEEGER: Well, the problem is is the
21 information is inaccurate.

22 MR. GROSSMAN: Well, you can testify as to that
23 when you get to testify.

24 MR. LEEGER: All right.

25 MR. GROSSMAN: But that=s not --

1 MR. LEEGER: I=ll be happy to do that.

2 MR. GROSSMAN: Okay. This is your opportunity to
3 cross-examine him.

4 BY MR. LEEGER:

5 Q You said you looked at different sites. I=m not
6 sure now about the height of the cell tower. I have 75
7 feet, 95, 115 but right, somewhere here, this is Briggs
8 Chaney, somewhere right here --

9 MR. GROSSMAN: Somewhere right here being in the
10 northeast --

11 MR. LEEGER: I=ve got to get on the right road so
12 I want to make sure I got the right thing going to the west.

13 MR. GROSSMAN: I think that=s --

14 MR. LEEGER: Pretty much due west.

15 MR. GROSSMAN: That=s Briggs Chaney Road.

16 MR. LEEGER: Briggs Chaney Road due west.

17 MR. GROSSMAN: And all the way to the, to the, in
18 the northeast corner of the area that=s yellow on the map.

19 MR. LEEGER: Right.

20 MR. GROSSMAN: Okay.

21 MR. LEEGER: I=d really like to see the other map
22 since this is showing improved coverage. This is the way it
23 is today.

24 MR. GROSSMAN: That=s correct.

25 MR. LEEGER: If it=s not built.

1 MR. GROSSMAN: Again, Exhibit 64.

2 MR. LEEGER: Yeah. Exhibit 64. Thank you.

3 BY MR. LEEGER:

4 Q If you came over here, there is a, some commercial
5 building right here and then there=s a temple.

6 MR. GROSSMAN: I=m just trying to identify what
7 you=re referring to. So right here is?

8 MR. LEEGER: Good Hope and Briggs Chaney.

9 MR. GROSSMAN: Okay.

10 BY MR. LEEGER:

11 Q Reasonable distance from the towers. There=s a
12 minuet I believe is what, minaret is what it=s called right
13 here. Was that considered as a possible site? It is
14 already, I would assume, roughly the right height.

15 A Well, I think, I think prior testimony already
16 spoke to the other candidates that we evaluated and looked
17 at and found that either they were not interested or, for
18 some odd reason, or they did not work. So I think we=ve
19 already, already answered that.

20 Q Okay. So it was at least explored is what you=re
21 saying.

22 A Yes.

23 Q Okay. And are any trees going to be cut down out
24 of the parkland?

25 A I=m not aware of any trees to be cut down.

1 MR. LEEGER: I=m going to ask -- we=ve got a
2 whole, couple questions.

3 MR. GROSSMAN: Are you finished, Mr. Leeger?

4 MR. LEEGER: I=m finished.

5 MR. GROSSMAN: All right. Next?

6 MR. ALBERT: I just have one question for Mr.
7 Donohue.

8 MR. GROSSMAN: Just for the record, once --

9 MR. ALBERT: Alan Albert. One question for you,
10 sir. You stated that --

11 MR. DONOHUE: I=m not a witness.

12 MR. ALBERT: But you spoke to, you spoke to a
13 point.

14 MR. GROSSMAN: Hold on. You=re asking Mr. Donohue
15 a question?

16 MR. ALBERT: Yes.

17 MR. GROSSMAN: What=s your question? Ask me your
18 question and I=ll --

19 MR. ALBERT: The question, this goes back to the
20 Banneker versus the Paint Branch site.

21 MR. GROSSMAN: Yes.

22 MR. ALBERT: He said that Paint Branch was a
23 consideration, Banneker was not. If it=s part of Montgomery
24 County Public Schools, why is one available and one wouldn=t
25 be available?

1 MR. GROSSMAN: Well, do you want to address that,
2 Mr. Donohue?

3 MR. DONOHUE: Sure. As Mr. Chaney explained,
4 Montgomery County Schools will consider school facilities
5 where there are tall stadium lights and similar tall
6 structures such as at Sherwood High School. I made an
7 assumption that Paint Branch may have such tall similar
8 structures.

9 MR. ALBERT: Okay.

10 MR. DONOHUE: It=s a high school.

11 MR. ALBERT: I just wanted to know to clarify.

12 MR. GROSSMAN: Okay, sure.

13 MR. ALBERT: To clarify.

14 MR. DONOHUE: I may be wrong but that=s my
15 assumption.

16 MR. ALBERT: All right.

17 MR. GROSSMAN: All right. Next. All right, Mr.
18 Coles?

19 CROSS-EXAMINATION BY MR. COLES

20 BY MR. COLES:

21 Q Just a quick question. I=ll go back to Exhibit
22 65. You were the one, the lead for designing this.

23 A That=s correct.

24 Q This site here, to work, to function well with the
25 other cell tower sites. What would you do if this special

1 exception was turned down? How would you design this. What
2 would you do and what would the results, the effects be?

3 A I mean, we would have to reevaluate the design.

4 Q And what does that mean? Would you, would you
5 just forego coverage in this area?

6 A I mean, if we are unable to get the approval for
7 this proposed location, then we would have to reevaluate it,
8 may have to look at other locations and areas.

9 Q Okay.

10 A If I can answer that.

11 Q And was the testimony earlier that all other
12 locations have been evaluated?

13 A That=s correct. That=s the reason why, I mean,
14 we=re here. I mean --

15 Q So how do you look at other locations if the other
16 ones had been--

17 A Well, that=s, that=s brings my importance to why
18 we really want this location because we have been through so
19 many iterations. We=re trying to.

20 Q Okay. So you may not be able to answer this but
21 I=m going to ask the question anyway. So you used the word
22 want. Is the site necessary?

23 A I feel that it=s necessary. T-Mobile feels it is
24 necessary.

25 Q And how is that?

1 A Because when we go over the customer complaints,
2 the performance of this area, those are two of the main
3 motivations, the reason why we're here today.

4 Q But the system works without this site right now
5 today.

6 A It doesn't work well.

7 Q But it works.

8 A Semantics.

9 MR. GROSSMAN: Well, he's answered the question.

10 MR. COLES: Okay.

11 MR. GROSSMAN: It doesn't work well.

12 MR. COLES: Fair enough. Fair enough.

13 BY MR. COLES:

14 Q Number two, this is a quick question.

15 MR. GROSSMAN: Let me interrupt for a second.

16 When you say it doesn't work well, what do you mean by that
17 and what do you get, what are the customer complaints that
18 you get?

19 THE WITNESS: We have dropped calls. Also, with
20 the predominant amount of on-street coverage, which is the
21 yellow on the other map --

22 MR. GROSSMAN: Yes.

23 THE WITNESS: -- once you go inside of your home,
24 you're not able to keep a call up without it being
25 interrupted by a dropped call.

1 MR. GROSSMAN: Okay. Does that apply to vehicles
2 as well if you=re in a vehicle?

3 THE WITNESS: That=s correct.

4 MR. GROSSMAN: Okay. All right. Thank you.

5 BY MR. COLES:

6 Q Second quick question. This is in regards to the,
7 to the monopole itself.

8 A Yes.

9 Q If the antennas themselves need repair, how does
10 that work?

11 A If they need repair, I=m sure they=re going to
12 have to have someone with a crane cherry picker to hoist
13 someone to uncover it and do the repairs.

14 Q So it=s a major repair at that point.

15 A I don=t know if it=s major but it is a repair.

16 Q It requires certain apparatus and size apparatus.

17 A That=s correct. That=s correct.

18 MR. COLES: Okay.

19 MR. GROSSMAN: Okay. Well, let=s give the back
20 row a chance. Come on forward.

21 MR. HUDSON: McKinley Hudson. One question.

22 MR. GROSSMAN: All right, Mr. Hudson.

23 CROSS-EXAMINATION BY MR. HUDSON

24 BY MR. HUDSON:

25 Q Mr. Jews, do you know whether the existing towers

1 that appear to be a perimeter around the proposed tower are
2 in residential areas and were they approved with a special
3 exception in the same manner that we're dealing with today?

4 A I'm not aware if they were approved with special
5 exceptions. I'm not sure if -- I don't believe all of them.
6 If you look at the makeup of the roads, it's safe to assume
7 that they seem to be in residential areas.

8 Q This is the existing.

9 A Yeah. Well, I'm not just speaking to where the
10 sites are. For example, the makeup of the roads like get
11 more dense so it's safe to assume they are in residential
12 areas but I'm not sure if they were all approved by a
13 special exception.

14 Q But you acknowledge that they are all in
15 residential areas?

16 A Not, not all. I'm not sure of all.

17 Q A portion?

18 A A portion.

19 Q Can you define what portion, 50 percent, 25
20 percent?

21 A I can't give you a percentage, sir.

22 MR. GROSSMAN: There are certain exceptions to the
23 requirement for a special exception that are spelled out.
24 In the Zoning Ordinance in 59-A-6.12, private
25 telecommunications facilities attached to a publicly-owned

1 structure or located on publicly-owned land. And then 59-A-
2 6.14, antenna for private telecommunications facilities
3 mounted on a rooftop or a structure located on privately-
4 owned land.

5 So there are some times when there are other
6 limits that apply or different kinds of qualifications that
7 apply so I can=t answer either as to whether all of those
8 are special exceptions. You can check with the Board of
9 Appeals to see if there are special exceptions in those
10 areas.

11 MR. HUDSON: I guess the purpose of my question is
12 getting into, get a feel for what is the frequency of
13 placement of these towers and what degree that we have to go
14 through this kind of a process and whether this process does
15 or does not apply.

16 MR. GROSSMAN: Okay. All right. Sir? Come on
17 forward.

18 MR. AULD: Bill Auld.

19 CROSS-EXAMINATION BY MR. AULD

20 BY MR. AULD:

21 Q Curtis, I had a question for you.

22 A Sure.

23 Q We received a letter, I don=t know if this has
24 been entered into the documents, this week. It=s from
25 Matthew Butcher. It describes the -- it says January 16th.

1 MR. DONOHUE: It=s contained in the January 15th
2 mailing.

3 MR. AULD: Yes.

4 MR. DONOHUE: Right. And actually, Mr. Butcher is
5 here. He=s going to --

6 MR. AULD: I know he is. My question relates to
7 this letter though.

8 MR. DONOHUE: This man didn=t prepare the document
9 though.

10 MR. AULD: I know. But he, it=s a general
11 question to his --

12 MR. DONOHUE: I=m probably going to object, I=m
13 just here to tell you.

14 MR. GROSSMAN: Okay.

15 BY MR. AULD:

16 Q What you talked about earlier which is being the
17 height of the cell tower.

18 A Yes.

19 Q 95 versus 115. And in this letter, it states that
20 where the cell tower is being built now versus the top of
21 Cabin Creek Drive, which is going toward Banneker Middle
22 School, which is that, I believe it=s the .3 tenths of a
23 mile away.

24 A Uh-huh.

25 Q My question is if you were to, if you were able to

1 build some type of apparatus at Banneker, how high of a
2 tower would you have to have to get your same coverage
3 you=re trying to get with this tower here that=s 115 feet
4 tall.

5 MR. DONOHUE: So if Montgomery Schools would
6 consider it --

7 MR. AULD: Yes.

8 MR. DONOHUE: What would the network, what would
9 the design look like at Banneker?

10 MR. AULD: Yeah.

11 BY MR. AULD:

12 Q And from what you said earlier, it could be a
13 flagpole?

14 A Yeah. I=d have to do an analysis on that to find
15 out what height would help us to meet the coverage
16 objective.

17 Q Okay.

18 A I would have to do an analysis on it.

19 Q It would be something that could be possibly just
20 as effective with a much smaller pole. That was my point.

21 A Yeah. I=d have to look at that to see. I would
22 have to look at -- I can=t give you an answer, just say
23 okay. I would have to use this height of a tower to meet
24 that objective. I would have to go back and look at it and
25 design it and find out.

1 MR. AULD: Okay.

2 MR. GROSSMAN: All right. Yes, Ms. Stine.

3 MS. STINE: Lisa Stine.

4 CROSS-EXAMINATION BY MS. STINE

5 BY MS. STINE:

6 Q In doing some research on this project, I visited
7 your, T-Mobile=s website and I understand that they have a
8 product that home consumers can put in their home to boost
9 their signal for their cell phones. Can you explain why or
10 why not that would not accomplish your goal?

11 A Yeah. With the use of the booster, you have to
12 have adequate signal or coverage. Adequate meaning at least
13 better than what you have right now. Right now you have the
14 on-street coverage. So I=ll give you this example. If you
15 were to buy that equipment and boost what you have now,
16 which is on-street coverage, you would just have on-street
17 coverage which isn=t reliable coverage, so it=s not going to
18 help you. But you have to have a good source in order for
19 that technology to work.

20 Q Okay. All right. You mentioned earlier that you
21 have a lot of customer complaints. I=m sure T-Mobile has
22 done records records of the customers calling in and
23 complaining. Has there been any research to determine the
24 correlation between the customers who are calling and
25 complaining and the age of their unit, the cell phone

1 itself?

2 A No, there hasn=t. Usually, the customer
3 complaints are my phone service isn=t working or things of
4 that nature.

5 Q is it possible that these customers who are
6 complaining need to upgrade their equipment?

7 A It=s possible. It=s possible. Many things are
8 possible.

9 Q All right. Okay.

10 A But the thing I do know is that they do not have
11 the type of coverage that they are paying for.

12 Q If they have the latest and greatest equipment,
13 would they have better reception than a cell phone that was
14 perhaps two to three years old?

15 A That=s possible.

16 Q Thank you.

17 MR. GROSSMAN: Mr. Jews, was a drive study done
18 here at all?

19 THE WITNESS: A drive test?

20 MR. GROSSMAN: Yes.

21 THE WITNESS: Yes. I believe we had the, what do
22 you call, scan data of the area, yes.

23 MR. GROSSMAN: Okay. So that your conclusion
24 about the on-street coverage rather than in-building and in-
25 vehicle coverage is based not just on a computer simulation

1 here but by actually a drive test?

2 THE WITNESS: Right. On the drive data also, our
3 drive data, we do this in the spring or summertime so that=s
4 when the trees are mature. Doing it right now would make no
5 sense.

6 MR. GROSSMAN: So explain because people in the
7 audience may not have heard of a drive test before. Explain
8 what the drive test is that you=ve done.

9 THE WITNESS: Yeah. A drive test is we take a
10 receiver, we make phone calls and we drive through
11 neighborhoods trying to collect as many samples of the areas
12 and different morphology such as residential, urban and to
13 see exactly what shape the network is in. That=s how we=re
14 able to find out exactly what type of coverage is, exactly
15 the type of coverage that is there right now. Also, we use
16 that for our propagation so that we can make sure that the
17 appropriate losses are taken into account as far as the
18 losses like the trees and buildings and things like that.

19 MR. GROSSMAN: All right. Mr. Saphier? Dr.
20 Saphier.

21 CROSS-EXAMINATION BY MR. SAPHIER

22 BY MR. SAPHIER:

23 Q A couple of questions. I=m really surprised that
24 the first one I=m going to ask hasn=t come up already. You
25 mentioned that you may have two other carriers in this

1 monopole. How are they going to install the antennas when
2 the pole is already installed itself?

3 A What it is is there are certain compartments.
4 Okay, I'll give you an example. At 115, we have
5 compartments. These panels are removable panels so we can
6 place the antennas and run the cables down. It's just real,
7 a generic way to explain it. Ten feet down, typically we're
8 separated 10 feet from each other. Those poles, that
9 section has a compartment where those panels can be removed
10 so they can install theirs inside. When it's done, they
11 close it back up, coaxial cables down the pole and so on and
12 so on.

13 Q So with yours being at 112, the other two are 102
14 and 92 feet high, correct?

15 A Right.

16 Q And how are they going to get to that height?

17 A As far as how are they going to physically install
18 it, I think Mr. Coles had asked that question if they had to
19 come in and install using whatever equipment they're going
20 to bring to haul the equipment inside.

21 MR. GROSSMAN: Are there panels in the side of
22 the, in the side of the cell tower that allow them access?
23 Is that --

24 THE WITNESS: Yes. Yes.

25 MR. GROSSMAN: Okay.

1 BY MR. SAPHIER:

2 Q But they=re going to need cherry pickers or
3 something to raise them up to that height.

4 A I would assume so.

5 Q That=s what I=m surprised had not come out before.
6 Okay. You mentioned that tree coverage degrades the RF
7 coverage.

8 A That is correct.

9 Q Is that because of what I believe they call line
10 of sight, that you want to be able to see whatever you=re
11 pointing at for your RF?

12 A Line of sight is what I=m trying to achieve that=s
13 why at 115 feet, I have a better line of sight of this area.

14 Q Okay.

15 A So that --

16 Q Line of sight is what you=re trying to achieve is
17 what you just said, correct?

18 A That=s correct.

19 Q Line of sight works two ways. So if you can see
20 what you=re trying to irradiate, let=s say, with your
21 coverage, then whoever is being irradiated by that
22 coverage --

23 MR. DONOHUE: I=m going to object to the use of
24 that term, Mr. Saphier.

25 MR. SAPHIER: Okay.

1 BY MR. SAPHIER:

2 Q If you can see whatever you=re trying to give
3 coverage --

4 MR. GROSSMAN: I=ll have to rule on it. I think
5 we understand what he means and I don=t think there=s any
6 reason --

7 MR. DONOHUE: I think it=s pejorative. That=s my
8 point.

9 MR. GROSSMAN: All right. So --

10 BY MR. SAPHIER:

11 Q If you can see whatever you are trying to give
12 coverage to, they can see you as well because line of sight
13 works both ways. So your cell tower will be visible to
14 whomever you are trying to give coverage to, or the better
15 coverage that you=re getting will see the cell tower above
16 the tree line because you=re going to be able to give them
17 cell coverage and they=ll be able to see you, that is the
18 cell tower, in return.

19 A When you say see, are you talking about someone
20 physically --

21 Q Yes.

22 A -- physically seeing?

23 Q Yes.

24 A I don=t dispute that. I=m sure there=s going to
25 be --

1 Q That=s good enough. You don=t dispute that.

2 MR. GROSSMAN: No. Let him finish his answer. Go
3 ahead.

4 MR. SAPHIER: I=m sorry.

5 THE WITNESS: I don=t dispute that there=s going
6 to be different vantage points. Some people may be other to
7 see the tower, some may not. That=s something --

8 BY MR. SAPHIER:

9 Q But you=re aiming for more coverage and therefore,
10 more people will see the tower. Thank you.

11 MR. GROSSMAN: All right. I take it the sense of
12 your question, Dr. Saphier, is if the tower is taller, it
13 will be visible to more people. I don=t think that that=s
14 in dispute. All right. Sir, come on forward, please.

15 MR. POTTS: John Potts.

16 CROSS-EXAMINATION BY MR. POTTS

17 BY MR. POTTS:

18 Q Mr. Jews, just --

19 A Sir.

20 Q Just to clarify the yellow area on the coverage
21 map. This is No. 64. I know Mr. Chaney has referred to it
22 as a coverage gap. I think you=ve referred to it as
23 coverage is not as well or good as you=d like it to be.

24 A That=s correct.

25 Q So that doesn=t necessarily mean that a homeowner

1 in this area could not get any coverage at all, correct?

2 A That=s correct.

3 Q So a homeowner in this area could possibly get
4 coverage in his or her house, or outside of their house.

5 A They could get coverage, yes, but is it useable?
6 And I say useable, it=s because now that people are
7 requesting cell service because of, obviously, wireless
8 internet, texting and all kind of other data occasions.
9 Those services will not work reliably with the current
10 coverage that=s there now. So, yes. They will have
11 coverage but not reliable coverage.

12 Q Okay. So is it safe to say that there=s probably
13 varying degrees of coverage even within the yellow area?

14 A That=s safe.

15 Q Some more reliable than others.

16 A I guess. It depends on, it depends if, once
17 again, if you=re in your home, I would not say that=s
18 reliable. If you=re holding the phone to your ear or hands-
19 free or in your vehicle, it may be reliable.

20 Q In terms of selecting the site, it=s pretty clear
21 your criteria is the propagation attenuation, having
22 blockage, trees, whatever. I think Mr. Chaney also
23 mentioned T-Mobile=s criteria was to try to reduce
24 visibility of the tower to homeowners.

25 A Yes.

1 Q Did you address or factor into your criteria
2 anything having to do with the fact that the site may or may
3 not be in a special protected area?

4 A That=s something that Mr. Chaney=s team evaluates.
5 I=m strictly just a design engineer that targets an area in
6 need of service.

7 Q So that, that would not be part of your criteria.

8 A No, sir.

9 Q Okay. Thank you.

10 A No problem.

11 MR. GROSSMAN: All right, Mr. Coles. Come on.

12 MR. COLES: Just a quick question. Sorry. Jeff
13 Coles. Exhibit 65.

14 FURTHER CROSS-EXAMINATION BY MR. COLES

15 BY MR. COLES:

16 Q Looking at the proposed site, this map, propaganda
17 map shows after the -- I was thinking in my head all day,
18 really, a propaganda map? That=s really what I wanted to
19 say? I apologize, Freudian slip. Propagation map.

20 MR. DONOHUE: You don=t mind if I use that next
21 time.

22 BY MR. COLES:

23 Q But this propagation map, this shows the site,
24 correct, after, the coverage you will receive after the site
25 was installed.

1 A That=s if it is installed, yes.

2 Q Okay.

3 MR. GROSSMAN: Yes. Exhibit 65.

4 BY MR. COLES:

5 Q How many households are we talking about here?

6 A I can=t give you an exact number of how many
7 households will be effected by it.

8 Q Okay. Do we know how many? Does someone at T-
9 Mobile know? You don=t know? I asked if somebody at T-
10 Mobile may know.

11 A I=m not, I=m not sure. I know I do not know the
12 exact number.

13 Q Okay. So we=re going --

14 MR. DONOHUE: He said he didn=t know.

15 MR. COLES: That=s fine. Okay. Thank you.

16 MR. GROSSMAN: All right. I think we=ve gotten
17 everybody. Any redirect?

18 MR. DONOHUE: No, sir.

19 MR. GROSSMAN: All right. Thank you, Mr. Jews.
20 Appreciate it. All right. Your next witness, or maybe it=s
21 time for us to take a little mid-afternoon break for five
22 minutes.

23 MR. DONOHUE: We ought to take a quick break and
24 we ought to, if you will give us an idea of what your
25 availability is today. Put it that way.

1 MR. GROSSMAN: I can go on pretty much
2 indefinitely. I don=t know how late the court reporter can
3 stay. How late can you stay, ma=am?

4 THE COURT REPORTER: I=m available.

5 MR. GROSSMAN: You=re available, all right. We
6 ordinarily, the business day closes at 5 but, you know,
7 we=ll go after that if we have a prospect of finishing. If
8 we don=t, we=ll pick out another date to finish.

9 MR. DONOHUE: We=d like to try to finish. We=re
10 going to move through. I have just two witnesses to call.

11 MR. GROSSMAN: Yes. But there are a lot of people
12 who have an opportunity to testify after that.

13 MR. DONOHUE: My part of it will go quick if I
14 can.

15 MR. GROSSMAN: All right. Well, we=ll take a five
16 minute break, come back at 4:00 on that, on that clock in
17 here.

18 (Whereupon, at 3:53 p.m., a brief recess was
19 taken.)

20 MR. GROSSMAN: Your next witness, Mr. Donohue.

21 MR. DONOHUE: Mr. Chairman, we=ve concluded Mr.
22 Jews= testimony and I=d like to release him unless the Chair
23 has any questions for him. We know that he owes you some
24 things.

25 MR. GROSSMAN: Right.

1 MR. DONOHUE: You=re going to tell me when the
2 record is going to remain open.

3 MR. GROSSMAN: Does anybody else see any reason
4 why Mr. Jews cannot leave? Seeing no answers, that will be
5 fine. Thank you.

6 MR. DONOHUE: He may have already left. Go back
7 to work. Thank you, Mr. Chair. Mr. Chairman, this is Matt
8 Butcher. Matt is with Sitesafe. His resume was submitted
9 to you earlier. Mr. Butcher is an expert in RF emissions
10 and was asked to do some reports.

11 MR. GROSSMAN: All right.

12 MR. DONOHUE: So I have submitted his resume. I=d
13 like to ask him some questions and then we do propose to
14 qualify him or ask that he be qualified as an expert
15 witness.

16 MR. GROSSMAN: All right. Mr. Butcher, can you
17 raise your right hand?

18 (Witness sworn.)

19 MR. GROSSMAN: All right. You may proceed.

20 DIRECT EXAMINATION

21 BY MR. DONOHUE:

22 Q Mr. Butcher, Good morning.

23 A Good morning.

24 Q Now, will you tell us what your educational
25 background is?

1 A Yes. I have a bachelor of science degree from the
2 University of Maryland in electrical engineering. I'm a,
3 I've been working as an engineer for 20-some number of
4 years.

5 Q Licensed in the state of Maryland?

6 A I'm licensed, I'm a licensed professional engineer
7 in the state of Maryland, in the District of Columbia,
8 Virginia as well as six other states.

9 Q And what=s your present employment?

10 A I'm the vice-president of engineering of Sitesafe.
11 We=re a company in Arlington, Virginia that does RF contract
12 work for the, for the wireless industry, any interested
13 parties. Primarily around RF health and safety.

14 Q And have you been similarly qualified in front of
15 boards, hearing boards, planning boards, et cetera?

16 A Yes.

17 Q With me?

18 A With you and in many different states.

19 Q Right.

20 MR. GROSSMAN: In Montgomery County?

21 THE WITNESS: Olney?

22 MR. DONOHUE: Yes.

23 THE WITNESS: Olney.

24 BY MR. DONOHUE:

25 Q And Laytonsville?

1 A Yeah, Laytonsville.

2 THE WITNESS: Sorry. The town of but not in front
3 of the County here.

4 MR. GROSSMAN: Not in front of the County.

5 THE WITNESS: Correct.

6 MR. GROSSMAN: And you=ve testified under oath as
7 an expert?

8 THE WITNESS: Yes, I have.

9 MR. GROSSMAN: In electrical engineering.

10 THE WITNESS: Absolutely.

11 MR. DONOHUE: And specifically, R -- well, I guess
12 we=ll get into that. But we=re asking that he be qualified
13 or is accepted as an expert in RF, in MPE, maximum permitted
14 exposure.

15 MR. GROSSMAN: Okay. Well, I don=t know what you
16 can ask him about maximum, his experience in that. Maximum
17 -- an expert in RF and maximum permitted exposure.

18 THE WITNESS: Yes. I guess you can qualify, or
19 I=d qualify my expertise as in the FCC rules and regulations
20 on human exposure to radio frequency energy.

21 MR. GROSSMAN: All right. Any wish to ask this
22 witness questions regarding his qualifications? Yes, sir.
23 Come forward, Mr. Karzai.

24 MR. KARZAI: Hameed Karzai.

25 CROSS-EXAMINATION BY MR. KARZAI

1 BY MR. KARZAI:

2 Q I'm just curious about the last part as to your
3 qualification about the human what=s it called? I'm sorry.
4 Can you repeat that?

5 A Human, the measurement of exposure to radio
6 frequency energy.

7 Q Okay. And how do you consider yourself to be
8 qualified in that matter?

9 A Because I'm an electrical engineer and been
10 studying this for a large number of years. I've been
11 participating with the Federal Communications Commission on
12 international panels. I've done, created modeling
13 techniques and taken measurements in thousands of sites all
14 over the country.

15 Q But how is that? That=s the engineering part, but
16 how does that relate to the affect of this to the actual
17 human? I mean, that has to have a logical aspect to it and
18 I'm not making the connection there.

19 A Yeah. I never said I was an expert to the human
20 response to it. I'm an expert in measurement and assessment
21 of exposure levels to, with respect to human exposure to
22 exposure to any other thing.

23 Q So have you done studies?

24 A I've done many studies.

25 Q Which are -- okay. Studies as to cell towers or

1 something as --

2 A Absolutely. I've measured cell towers, buildings,
3 rooftops, as I mentioned, all over the country.

4 Q Around -- and then their effect on the people or
5 just, I mean, I'm just, I'm just trying to figure out how
6 does that work?

7 A Yes.

8 MR. GROSSMAN: I understand the distinction he=s
9 making.

10 THE WITNESS: Yeah, sure.

11 MR. GROSSMAN: I think what he=s getting at is is
12 are you saying --

13 THE WITNESS: I'm not a medical doctor. I do not,
14 I'm not a, I don=t have any experience in being able to say
15 what the exact effect of RF energy is on a particular
16 biological.

17 BY MR. KARZAI:

18 Q Exactly. So --

19 MR. GROSSMAN: But I guess that when you say
20 you=re an expert in maximum permitted exposure, you=re
21 talking about whether or not a cell tower is going to emit
22 radiation exceeding FCC permitted levels, is that correct?

23 THE WITNESS: Right. The maximum permissible
24 exposure is the, is how the FCC describes the amount of
25 energy you=re allowed to expose humans to.

1 MR. GROSSMAN: Right. But you=re not talking
2 about an evaluation of the impact of those levels on humans.

3 THE WITNESS: Correct.

4 MR. GROSSMAN: Okay. Which is not really an issue
5 before me in any event but I --

6 MR. KARZAI: I understand.

7 MR. GROSSMAN: But I understood the distinction
8 you=re making.

9 MR. KARZAI: Right. Because I thought that, you
10 know --

11 MR. GROSSMAN: Right.

12 MR. KARZAI: He was, you know, he was considered
13 an expert in that area and I want to make sure that we
14 understand that=s not an area of expertise. It=s just to
15 say that this much radiation is allowed by the federal
16 government and this is what the tower emits.

17 MR. GROSSMAN: Right. Right. Exactly.

18 MR. KARZAI: Right.

19 MR. GROSSMAN: I presume that=s the only thing --

20 MR. DONOHUE: That=s correct.

21 MR. GROSSMAN: -- you=re going to have --

22 MR. DONOHUE: That=s correct.

23 MR. GROSSMAN: -- him testify to because anything
24 beyond that is not properly before me.

25 MR. DONOHUE: That=s correct.

1 MR. GROSSMAN: The FCC regulations.

2 MR. DONOHUE: Correct. Thank you. Sorry if I
3 wasn't as articulate.

4 MR. GROSSMAN: Any other questions regarding this
5 witness's expertise? If not, then I accept him as an expert
6 in radio frequency engineering in terms of the maximum
7 permitted exposure under FCC regulations with the caveat
8 specified in Mr. Karzai's questions. All right. You may
9 proceed.

10 DIRECT EXAMINATION

11 BY MR. DONOHUE:

12 Q Mr. Butcher, Sitesafe prepared a report for T-
13 Mobile on the Gibson property dated August 2011, is that
14 correct?

15 A That is correct.

16 Q And I realize the signature there is not yours but
17 this was, is this report familiar to you, the Sitesafe
18 report?

19 A It's very familiar to me. It was signed by David
20 Cotton who is one of my direct reports.

21 Q Okay.

22 MR. GROSSMAN: Is the Sitesafe -- oh, I see. Is
23 the Sitesafe report in the record yet?

24 MR. DONOHUE: It is. I put it in, gave it in to
25 you today.

1 MR. GROSSMAN: Okay. Let me -- I do have that as
2 Exhibit 62. Is that what you're referring to? Site
3 compliance report?

4 MR. DONOHUE: Yes, sir.

5 THE WITNESS: Correct.

6 MR. GROSSMAN: Okay.

7 BY MR. DONOHUE:

8 Q Earlier in the day, the Chairman made a statement
9 about the Telecommunications Act and the fact that the RF
10 emissions maximum permitted exposure is not really relevant
11 to the Board=s consideration, and you heard the Chair
12 explain that the federal law prohibits. Is that a fair
13 understanding what the federal law is? Is that your
14 understanding what the federal law is?

15 A That is correct.

16 Q All right. So what then is your role in the
17 current application? What are you asked to do by T-Mobile?

18 A T-Mobile asked me to model and predict the amount
19 of exposure in the, in the neighborhood around the, around
20 this tower, so to predict how much energy would be, anybody
21 would be exposed to as a result of this tower being
22 constructed.

23 Q And how does one go about modeling exposure
24 levels? Are you asked to look at the particulars of the
25 site, the height of the facilities that are there?

1 A Absolutely. The FCC, in their Bulletin No. 65,
2 describe some techniques for predicting how much exposure
3 from a particular set of antennas. We use models based on,
4 on those recommendations to predict how much RF energy will
5 be at any point in the ground.

6 Q And is there an industry standard for that kind of
7 thing?

8 A The FCC standard, the FCC rules in that Bulletin
9 65, those, the rules are based on the IEEE C.90, C.95
10 recommendation which has also been adopted by the American
11 National Standards Institute and the National Council on
12 Radiation Protection, and they're substantially the same
13 that are used internationally.

14 Q All right. So the acronyms that you're giving us,
15 you've given us earlier was ANSI, is that correct, A-N-S-I?

16 A ANSI, correct. IEEE which is the Institute of
17 Electrical and Electronic Engineers.

18 Q Yes.

19 A And the National Council on Radiation Protection.

20 Q Okay. So you're familiar with the FCC levels and
21 you're familiar with the makeup of those levels as described
22 by you with those various agencies, correct?

23 A Absolutely.

24 Q Okay. So back to the report, the August 2, 2011
25 report. Does the report demonstrate that the proposed

1 facility at the Gibson property would be in compliance with
2 the FCC levels?

3 A Yes. Actually, it=s August 1 but, yes, it does.

4 MR. GROSSMAN: Actually, the cover page is
5 August 2.

6 THE WITNESS: It says it in --

7 BY MR. DONOHUE:

8 Q There you go.

9 A I must have a slightly different one.

10 MR. GROSSMAN: Charles Cotton signed it on
11 August 2.

12 THE WITNESS: Oh, he signed it on August 2nd,
13 okay, yeah, but slightly above that, it says it was
14 generated on August 1st. So it was signed a day later.

15 BY MR. DONOHUE:

16 Q The August 2011 report from Sitesafe, does the
17 Sitesafe report from August of 2011 indicate compliance with
18 the FCC levels?

19 A It does. It does.

20 Q In fact, below levels, is that correct?

21 A Well below levels. This site actually would
22 qualify as categorically exempt from, from assessment by the
23 FCC rules because the antennas are more than 30 feet or 10
24 meters above the ground.

25 Q Categorical exemption is a term of art, Mr.

1 Butcher. What does that mean?

2 A It=s a term of art which to the FCC means as long
3 as the antennas for a telecommunications facility of this
4 sort on a tower are more than 30 feet or 10 meters in the
5 air, then that is sufficient assessment for compliance at
6 their level.

7 Q Subsequent to the August report, Sitesafe
8 participated in a community meeting on January 14 and also
9 prepared a document in connection with that meeting, is that
10 correct?

11 A That=s correct. I prepared that document and
12 participated in that meeting.

13 Q Okay. We=re getting closer because this one is
14 dated January 16, 2012 and signed by you, correct?

15 A It only has one date on it.

16 Q Good. Very good.

17 A Yes.

18 Q All right. So what was the intent of this
19 document? What=s this document intended to demonstrate?

20 A And just for Chairman Grossman=s information,
21 that=s in the packet that was sent to the committee. This
22 is to basically --

23 MR. GROSSMAN: I=d like to clarify that. I=m not
24 actually a chairman. I mean, I=m a man in a chair. There
25 is a chairperson to the Board of Appeals, Catherine Titus.

1 I=m the Hearing Examiner here and the Director of Office of
2 Zoning and Administrative Hearings but not that it makes a
3 difference. I just, since everybody has been calling me
4 chairman all day, I just thought I=d let you know.

5 MR. DONOHUE: Mr. Hearing Examiner sounds
6 cumbersome.

7 MR. GROSSMAN: It is. Mr. Examiner. How=s that?

8 MR. DONOHUE: Mr. Examiner. Right.

9 THE WITNESS: The -- this document was provided to
10 answer some questions that were brought up during the,
11 during the zoning meeting relative to RF exposure levels in
12 the neighborhood around the proposed tower.

13 BY MR. DONOHUE:

14 Q All right. So specifically, what kind of
15 questions came up?

16 A They wanted to know -- specifically, there were
17 concerns about houses being elevated at different elevations
18 with respect to the tower. And at the meeting, I was
19 unaware, not fully aware of the topography of the land so I
20 went and did a little bit more research and found out
21 exactly what the topography of the land was and looked at
22 three different residence which are pretty exemplary of the
23 entire neighborhood and what their relationship with this
24 tower would be, both vertically and horizontally, and what
25 their exposure levels would be.

1 Q All right. So both the spatial relationship, the
2 houses and also the height differences, right?

3 A Correct.

4 Q Okay.

5 A Correct. So the three residence, the three homes
6 that I was asked to take a look at are 5 Cabin Creek Court,
7 2911 Cabin Creek Drive and 14620 Friendlywood Road.
8 Friendlywood Road is immediately across the street from the,
9 from the ballfield of the middle school.

10 Q Okay.

11 A And that house or one of its very close neighbors
12 is the highest house that I can identify. So, so again, I
13 did measure them out on maps, looked at the elevation data
14 that=s available for them and came up with a distance
15 between them and the proposed tower, what their ground
16 elevation was, what the difference was. In other words, how
17 high they were from the base with respect to the base of the
18 proposed tower. What the structure height, I have listed
19 here the structure height of the tower of 115 feet, the
20 structure height of the various houses as I was able to
21 measure and then what the difference in the, the top of
22 those elevations are, the top of the homes versus the top of
23 the tower.

24 And as you can see, 5 Cabin Creek is about 830
25 feet away and it=s 47 feet, the top of that home is about 47

1 feet below the top of the tower, and at the far distant
2 14620 Friendlywood Road, it=s about 15, almost 1600 feet
3 away and it=s, the top of that home would actually be a
4 couple feet above the height of the proposed tower.

5 Q All right.

6 A And there=s a graphic that=s on the second page
7 which is, just shows the tower with some predictions,
8 predictive modeling. The modeling is used to show what the
9 exposure level is based on the, at a percentage of the FCC
10 limits. The, as you can see, the tower is on the right side
11 of that drawing and it shows that areas out to about 20, 20,
12 30 feet from the tower are, can be above five percent or
13 one-twentieth of that limit and all other areas are below
14 five percent or more than one-twentieth of the exposure
15 limit. And --

16 MR. GROSSMAN: Does the red indicate that=s a
17 dangerous level?

18 THE WITNESS: Red indicates levels that would
19 exceed the general public exposure limit. The FCC, if you
20 want me to, I can explain the exposure.

21 MR. GROSSMAN: Well, let me -- I don=t see any red
22 on the actual graphic. Does that indicate you could sit on
23 top of the tower and not exceed the --

24 THE WITNESS: Because of the, how small the tower
25 is compared to the distance, you can sit very close to this

1 tower. You=d have to be less than five feet from the tower
2 to be in areas that are predicted to exceed the exposure
3 levels.

4 MR. GROSSMAN: Well, I don=t even see that on
5 this.

6 THE WITNESS: Yeah. You can=t --

7 MR. GROSSMAN: I don=t see the red.

8 THE WITNESS: Again, because of the, because of
9 how small the tower is, the red is kind of --

10 MR. GROSSMAN: Oh, I see. Is not showing, okay.

11 THE WITNESS: It is not showing.

12 MR. GROSSMAN: All right. I get you.

13 THE WITNESS: I=d have to do a more detailed --

14 MR. GROSSMAN: Okay.

15 THE WITNESS: And actually, in our report, you can
16 see that.

17 MR. GROSSMAN: Okay. All right.

18 THE WITNESS: So anyway, there=s no, there=s no --
19 the only way that you can even exceed one-twentieth of the
20 exposure level is to go up to the top of the tower. To
21 note, this, the exposure from this tower was using T-
22 Mobile=s proposed antennas and operating frequencies as well
23 as a second carrier. When we originally did the report,
24 there was a potential for a second carrier so this is with
25 two carriers operating on the tower. Three carriers would

1 make a small difference but not, wouldn=t substantially
2 affect the exposure levels at anybody=s home.

3 And then the final thing that is in this is I did
4 calculations directly at the 5 Cabin Creek Court home and at
5 that distance, about 830 feet, and relative to the way the
6 antennas are oriented, the exposure level there would be
7 two-one-hundredths of one percent of the exposure limit, or
8 predicted to be that. So very small.

9 BY MR. DONOHUE:

10 Q You participated in the January 14th community
11 meeting, is that correct?

12 A I did.

13 Q And were you there to share information and also
14 respond to questions, that kind of thing?

15 A Absolutely.

16 Q Did you also participate in the August community
17 meeting?

18 A I did.

19 Q Same kind of thing?

20 A Absolutely.

21 Q Were you there and available to discuss --

22 A Absolutely.

23 Q -- RF emissions and MPE?

24 A Yes.

25 Q Great.

1 MR. DONOHUE: That=s all I have for Mr. Butcher,
2 Mr. Chair.

3 MR. GROSSMAN: Mr. Leeger, any cross-examination
4 questions?

5 MR. LEEGER: I do not.

6 MR. GROSSMAN: All right. Anybody else have any
7 cross-examination questions? Seeing no hands, I thank you,
8 Mr. Butcher.

9 THE WITNESS: Thank you.

10 MR. GROSSMAN: Appreciate it. Your next witness,
11 Mr. Donohue?

12 MR. DONOHUE: Mr. Grossman, may we excuse him as
13 well if we=re done with questions?

14 MR. GROSSMAN: Anybody see any reason not to?
15 You=re excused, sir.

16 THE WITNESS: Thank you.

17 MR. DONOHUE: Oakleigh is still here.

18 MR. GROSSMAN: Usually, I tease the transportation
19 experts because they usually end up going last.

20 MR. DONOHUE: True.

21 MR. GROSSMAN: This time it=s poor Mr. Thorne.

22 MR. DONOHUE: Well, he=s glad to be here, aren=t
23 you?

24 MR. GROSSMAN: All right. Sir, would you raise
25 your right hand, please? First of all, state your name for

1 the record.

2 MR. THORNE: Oakleigh J. Thorne.

3 (Witness sworn.)

4 MR. GROSSMAN: All right. You may proceed.

5 DIRECT EXAMINATION

6 BY MR. DONOHUE:

7 Q Mr. Thorne, would you tell us what your
8 educational background is?

9 A Yes. I'm a graduate of State University in New
10 York in 1963, and I took graduate courses at American
11 University through 1969 to about 1973, and I've taken
12 probably about 120 hours of educational credits that were
13 necessary to gain my appraisal designation.

14 Q And what is your designation from the Appraisal
15 Institute, right?

16 A I'm a member of the Appraisal Institute known as
17 MAI, and I also carry the CRE designation which is Council
18 of Real Estate which is by invitation only. The MAI
19 designation requires five years of experience plus a
20 comprehensive exam and about 60 hours of courses in one-week
21 intervals over a period of time, demonstration appraisal
22 reports and a comprehensive exam that lasts about six to
23 seven hours.

24 Q Have you been qualified as an expert in property
25 valuation in prior cases?

1 A Yes, I have.

2 Q Have you been qualified as an expert in Montgomery
3 County in property valuation?

4 A On numerous occasions.

5 Q And before the Board of Appeals an also the
6 Hearing Examiner?

7 A Yes, I have.

8 Q All right.

9 MR. DONOHUE: Mr. Chairman, I would submit that
10 Mr. Thorne is an expert in real property valuation having
11 been so designated in the past. I think his experience and
12 education bear that out.

13 MR. GROSSMAN: Does anybody have questions of Mr.
14 Thorne=s qualifications? Mr. Leeger, start with you.

15 CROSS-EXAMINATION BY MR. LEEGER

16 BY MR. LEEGER:

17 Q Are you residential or commercial and residential?

18 A My residential experience is limited to generally
19 luxury housing but my primary practice is commercial real
20 estate.

21 Q Thank you.

22 MR. LEEGER: That=s all I have.

23 MR. GROSSMAN: All right. Come forward, Ms.
24 Stine.

25 CROSS-EXAMINATION BY MS. STINE

1 BY MS. STINE:

2 Q You mentioned that at some point in your career,
3 you received the designated appraiser certifications or, you
4 know, forgive me, I'm not an expert in your field so what
5 was that terminology that you were qualified for?

6 A Well, I'm a member of the Appraisal Institute
7 which requires about 60 hours of courses, five years of
8 experience, a comprehensive exam that lasts about six hours.
9 And I'm also a licensed certified general real estate
10 appraiser in this state as well as the District of Columbia.

11 Q Okay.

12 A And Virginia.

13 Q Thank you. So could you tell me approximately
14 what year you received that, the, you became an appraiser?

15 A I started in the industry in 1965.

16 Q Okay.

17 A In Poughkeepsie, New York. And came to this
18 region in 1969. I gained or obtained my MAI designation in
19 1971, and I gained my CRE designation in 1984, and I became
20 licensed in these jurisdictions as a certified general real
21 estate appraiser between 1990 and 1991.

22 Q As a certified appraiser in this area, are you
23 required to have any continuing education?

24 A Yes. I have to have 14 credit hours per year for
25 continuing education.

1 Q Okay. So 14 credit hours translates to 14 actual
2 hours of time spent in a classroom learning or some other
3 method of gaining continuing education? Is that what credit
4 hours means to you?

5 A That=s absolutely correct.

6 Q Okay. All right. So you received, from when you
7 received this, I=m just making sure I understood you, from
8 when you received your licenses in this area, you, as an
9 ongoing tech, are required to take 14 hours a year of
10 additional education on the topic.

11 A The institute, the Appraisal Institute has always
12 had a demand for continuing education credits. When
13 licensing came to this region or the country after the Title
14 11 or 9 in 1989 and 1990 to become a certified general real
15 estate appraiser, the 14 credit hours per year has been
16 universal throughout the United States to maintain your
17 certified general license, but the institute has higher
18 requirements and I have to maintain both of those
19 educational courses.

20 Q Okay. Thank you.

21 MR. GROSSMAN: Anybody else? Seeing no other
22 hands -- oh, I=m sorry.

23 MR. SAPHIER: I don=t have a question for him. I
24 just don=t want you to do it. I object to him being
25 declared an expert.

1 MR. GROSSMAN: Okay. And why don=t you come
2 forward, Doctor.

3 MR. SAPHIER: Stewart Saphier again.

4 MR. GROSSMAN: And state the basis for your
5 objection.

6 MR. SAPHIER: He state that he had, that he was
7 limited to luxury residential properties and everything else
8 was commercial. This is not a luxury residential
9 neighborhood and therefore, he has no expertise within it.

10 MR. GROSSMAN: Mr. Donohue, do you want to respond
11 to that?

12 MR. DONOHUE: He didn=t say he was limited to
13 luxury, but let me ask Mr. Thorne.

14 DIRECT EXAMINATION

15 BY MR. DONOHUE:

16 Q Mr. Thorne, are you familiar with housing stock in
17 Montgomery County?

18 A Yeah. I=ve lived here since 1969.

19 Q Have you been asked to analyze property values in
20 connection with proposed cell tower construction on other
21 properties throughout Montgomery County?

22 A Yes. Since 1996.

23 Q Have you looked at property valuation in various
24 price points other than just luxury housing?

25 A From \$60,000 to \$6 million homes.

1 Q So when you answered the question about luxury
2 values, what was the context of that?

3 A Well, there=s two different sets of disciplines
4 that we=re trying to accomplish here. The kinds of studies
5 that I=ve been involved with are impact studies. In other
6 words, the viewshed has allegedly been impacted. That=s not
7 appraising. That is simply gathering analytical material
8 and looking at prices per square foot and comparing
9 physically those homes within the viewshed and those homes
10 without the viewshed. That=s an impact study. That is not
11 appraising. All we=re doing is analytical work to look at
12 comparative prices of those two homes with or without the
13 viewshed. The issue is that my appraisal practice, on the
14 other hand, has generally been limited to luxury homes
15 generally above a million dollars.

16 MR. GROSSMAN: Do you want to respond further?

17 MR. SAPHIER: No. He just repeated it, that his
18 appraisal practice is limited to luxury homes above a
19 million dollars which is not this neighborhood.

20 THE WITNESS: I --

21 MR. GROSSMAN: All right. And the -- I=m sorry.

22 THE WITNESS: I=m not appraising.

23 MR. GROSSMAN: All right.

24 THE WITNESS: I=m doing an impact study. That has
25 nothing to do with price points.

1 MR. GROSSMAN: All right. And let me ask you
2 this. Do you have, what is your experience in doing impact
3 studies?

4 THE WITNESS: I=ve been involved with impact
5 studies for the change of McDonald=s restaurants from a non-
6 drive-through to a drive-through restaurant and the impact
7 on traffic and house prices in the vicinity of those
8 McDonald=s restaurants. I=ve been retained to look at the,
9 a veterinarian who was going to buy land in Potomac and the
10 impact of a dog kennel on property prices within proximity
11 to the dog kennel. I=ve been retained by Dominion to look
12 at the impact of power lines, high voltage overheard power
13 lines, on property values in Loudoun, Fauquier, and Culpeper
14 Counties as well as Fairfax County in Virginia. And also,
15 we=ve done 11 studies since 1996 on the presence of cellular
16 telephone monopoles on property prices within the viewshed
17 or without, outside those viewsheds.

18 MR. GROSSMAN: All right. I=m satisfied that this
19 witness qualifies as an expert in the type of real property
20 impact, real property price evaluation which is I believe
21 what you=re asking him to testify to.

22 MR. DONOHUE: That=s correct.

23 MR. GROSSMAN: And so I so certify him as an
24 expert in that. You may question the witness.

25 BY MR. DONOHUE:

1 Q Mr. Thorne, in connection with the proposed
2 facilities at Gibson property, you were asked to participate
3 with us in presentation here today. Why don=t you tell the
4 Examiner what your role is in connection with this proposal.
5 What does Thorne Consultants do?

6 A In these studies or these proposals that I=ve been
7 asked to participate and testify in, the first step is to
8 download all the information off the web that we can about
9 the property, where it is, its acreage. We download the
10 aerial photographs that we see here. We also get access to
11 when the property, or the deeds because access to deeds in
12 the state of Maryland are free, they=re on the web. So we
13 know when they purchased the property or if there=s any
14 financing on that property, we know who the owners are.

15 The next step is to go out and look at the
16 property, the proposed site, and to look at the neighborhood
17 We drive it, we walk it. We were cold when I did it a few
18 days ago, but it=s a long steep hill down to the site. But
19 we look at housing prices in the neighborhood, and I have a
20 researcher that=s cataloged all the sales in this general
21 area on Perrywood Drive, Carson Place, Fairdale Drive,
22 Greencastle Road, Brownstone Court and between 2010 and '11,
23 there=s been 36 sales. The maximum price was 1.3 million,
24 the lowest price was 178,000. The median was about 470,000.
25 These are sales between 2010 and '11 all in this clustered

1 neighborhood on the, on the west side of 29.

2 So we learn about the neighborhood and then I
3 return to the studies that we've done of which there have
4 been 11 different studies. Some of them have been studied
5 multiple times because there was more data available at
6 subsequent studies than originally occurred. And we
7 develop, I develop, through my analysis of our prior
8 studies, my inspection of the site, the site plan, the
9 height of the monopole and make a determination based on
10 these studies if there's anything unique or peculiar about
11 this property that doesn't fit into the studies that we've
12 done. And I derive an opinion based on my experience and
13 the studies that we've done.

14 Q So you used the term impact studies which is
15 distinguishing from actual appraisal. The impact in this
16 case being visibility of the cell tower. Is that a fair
17 characterization?

18 A That's correct.

19 Q And these are existing and built cell towers, the
20 11 that you studied, correct?

21 A These 11 existing towers have been operating -- we
22 first started our studies in 1996 and they ended, I guess
23 the last one we did was the Bullis School and Clearview
24 Estates in March of 2010 and June of 2010. These are
25 existing monopoles. These are not, however, stealth poles.

1 These are the traditional monopole with the rack arrayed
2 outside the pole and there=s usually, in some of these
3 cases, a primary as well as two or three or four additional
4 carriers on those monopoles. These, our studies have not
5 been of stealth devices such as tree poles, flagpoles,
6 church steeples or slim lines like this one and they=ve
7 never been, they=ve always been, I think the smallest or the
8 lowest, let=s say the tallest or the lowest that we=ve ever
9 studied is 120 feet. So our work has dealt with the
10 traditional monopole with 120 feet and higher up to 280 feet
11 in lattice towers.

12 Q Have you also looked at other tower structures
13 such as self-support or guyed towers?

14 A We did three tall lattice towers in Kent and Queen
15 Anne Counties on the Eastern Shore. These were not
16 clustered together, these three towers. These were totally
17 and separate removed, in totally independent sites. These
18 were guyed wired. These were not self-supporting so they
19 had rather large footprints because the guyed wires had to
20 splay out from the structure. We did three tall lattice
21 towers in Kent and Queen Anne Counties. Housing prices when
22 we were involved, it was in the 60 to \$125,000 price range.
23 These lattice towers range from 225 feet to 280 feet with
24 strobe lights. Now, strobe lighting now, the technology is
25 such they don=t flash to the ground. They flash up. So the

1 mere fact there=s a strobe light there is kind of
2 irrelevant. It=s just that these were 225 feet to 280 feet
3 in height.

4 Q The impact studies that we=re talking about here,
5 I characterize it as the impact being the visibility of the
6 tower, correct?

7 A Yes. That=s correct. When we are asked to
8 conduct a study of an existing monopole, we first find out
9 when it was installed, when it became operational and all of
10 these poles had been operational by the time we arrived at
11 the site to get the study. These poles had been in site
12 anywhere from about seven years up to 15 go 20 years. So we
13 actually go out -- the methodology for our studies has
14 always been the same and let me go through the list of what
15 we=ve studied.

16 The first one, quickly, is the Bullis School in
17 Montgomery County. This gets studied so frequently, not
18 only by me but by other members of my industry because
19 there=s homogeneity housing stock. What does that mean?
20 They=re all two-acre lots, they=re all two-story colonials
21 with five to 7,000 square feet and they=re all in now, now
22 the prices are up roughly to two and a half to three and a
23 half million. The next one is Clearview Estates in Howard
24 County. This was a former pastureland that was developed
25 around it with 57 homes, no trees.

1 The three sites on the Eastern Shore, there=s a
2 Jewish School for the Girls and, for Girls in Owings Mill in
3 Baltimore County. That was 145 feet. I should mention, the
4 Bullis School was 120 feet with a primary carrier and two
5 co-locators. The Clearview Estates was 165 feet. The Hunt
6 at Fairfax Station was studied twice. This is in
7 southeastern Fairfax County along Route 123, and that was
8 199 feet with five carriers on that pole. And then in
9 Hampshire Greens, also in Montgomery County, a golf course
10 community to the north, on the north side of 198 with rather
11 ugly WSSC standpipes, mushroom-shaped standpipes on the
12 south side of 198. That was, those are roughly about 150
13 feet in there.

14 Q You were going to explain to us what your
15 methodology is but just to summarize, we=re talking about
16 different type structures, different counties and different
17 price points in terms of adjacent housing stock, correct?

18 A Correct. I guess our lowest prices are on the
19 Eastern Shore at about \$60,000 for a home up to about two to
20 three million at the Bullis School.

21 Q Okay.

22 A The methodology throughout all of these studies
23 was consistent. And by the way, just as an aside, Verizon
24 and AT&T funded these studies. T-Mobile did not fund these
25 studies. The methodology was the same. We have to find a

1 subdivision where there was homogeneity of the housing
2 stock. I've already said that. What it means is we need a
3 vanilla subdivision with similar type homes all about the
4 same size, all on about the same type of lots, and I'll
5 explain why.

6 We need sales of homes within the viewshed and we
7 need sales of homes outside the viewshed to compare and come
8 up with pairs, so we need a high level of sale activity. To
9 come away with a valid conclusion in each of these studies,
10 we needed at least four to eight pairs. That's a supported
11 conclusion. We needed comparability in style, profiles,
12 lots, house sizes. We have to have, if we're going to
13 choose pairs, we have to make sure we were in the same
14 school district, because that's a critical factor, and the
15 road neck, network. We drove and walked these areas. We
16 talked to homeowners.

17 Eventually, through walking and driving the area,
18 we derive an impact area of those homes that have a visual
19 relationship to the monopole and those that don't. Then we
20 collect data on the sales prices of the homes just like we
21 would here, a list of all the sales. Then we earmark those
22 sales that are within the relationship or within that
23 viewshed and those that do not. The sources of data are
24 mostly tax records and MRIS. And MRIS is what the brokers
25 do to list homes to be sold on multiple listing. MRIS is

1 Multiple Regional Information Systems.

2 So we collect the data, we earmark, from our
3 physical inspection, those homes that are in the viewshed
4 and those that are not. We go back to the area, to that
5 existing monopole, talk to homeowners when we can if they
6 answer the phone or answer the front door, and we then look
7 to compare pairs. In other words, they have to have sold
8 within a couple of months of each other. We can't compare a
9 sale two or three years back or, they'd have to have been
10 sold roughly withing six weeks of each other or 30 days of
11 each other.

12 And we have access to two facts of information.
13 We made no adjustments in these pairs because the minute we
14 try to make adjustments for lack of comparability and house
15 size or lot size or condition of the home, these had to be
16 almost identical pairs because in the Appraisal Institute,
17 these are called pure pairs. There=s no adjustments. We
18 only dealt with two facts which anyone can concur with and
19 find.

20 The sale price. Sale price comes from multiple
21 listing, comes from the tax record and anyone can get access
22 to the deed. We function in a disclosure environment here.
23 Sale prices are reported. So they can pick this price off
24 of the deed. Next is the size of the house. That comes
25 from two different elements. One is the tax records and the

1 other is MRIS. Sometimes there=s a conflict. If there is,
2 we try to resolve that conflict but the conflicts have not
3 been significantly large.

4 We do one thing. We divide the price by the
5 square footage of the home for the home that=s in the
6 viewshed and for the home that=s not in the viewshed. If
7 there is parity, if there is parity in that pair, by \$250.76
8 a square foot for the home versus \$250.74 a square foot,
9 that, to us, means no impact on property prices. We need
10 four, eight of those pairs for each of these subdivisions
11 and each of these sites that I mentioned in these counties
12 and at these locations.

13 MR. GROSSMAN: What=s the range for the definition
14 of parity?

15 THE WITNESS: If it=s \$2 --

16 MR. GROSSMAN: How big a spread can you have?

17 THE WITNESS: If it=s \$2, if it=s two to \$3
18 difference.

19 MR. GROSSMAN: Per square foot?

20 THE WITNESS: Yes. Then we have a problem. I
21 don=t have a problem. I=ve got to find out why. And so
22 that=s when we start banging on doors. Now, I know it may
23 be difficult for some folks to understand this but in the
24 mid to late '80s, I think three to four percent of
25 households were on wireless technology. Today, it=s almost

1 25 percent. People are actually paying premiums to be next
2 to these facilities because they want the service in the
3 house. I know that=s hard to understand but they do.

4 Just like in Loudoun County, they=re paying
5 premiums to be next to power lines because they don=t have
6 to look in somebody else=s kitchen. That power line right-
7 of-way is a recreational area for volleyball, throwing the
8 frisbee, walking the dog. Nobody seems to care about health
9 risks anymore with power lines and I=m old enough to
10 understand what happened in the '50s and the '60s with
11 regard to power lines and everybody=s concern about cancer.
12 That=s not the case here now.

13 MR. GROSSMAN: Return for a second to my question
14 about what is parity. I mean, as I understand it, you=re
15 looking to see if there is parity between the sales prices
16 of houses in the viewshed versus the sales prices of houses
17 outside of the viewshed, is that correct?

18 THE WITNESS: That=s correct.

19 MR. GROSSMAN: And I=m just asking what the
20 definition of parity is. You said you worry if it=s two to
21 \$3 a square foot difference. What, what is it --

22 THE WITNESS: Yes. If --

23 MR. GROSSMAN: So parity is considered, is defined
24 as within \$2 a square foot?

25 THE WITNESS: Yes, sir.

1 MR. GROSSMAN: Okay.

2 THE WITNESS: In most of these studies, we were
3 less than a dollar difference. Now, they have to be
4 identical homes. We have to be careful about finished
5 basements and decks which obviously, the deck doesn't go
6 into the living square footage but sometimes basements are
7 finished. We have to carefully read the MRIS statement to
8 understand whether there is a finished basement that might
9 have contributed to value in that, in those pairs. So there
10 has to be some level of analytical and some level of due
11 diligence.

12 MR. GROSSMAN: But you're telling me that that
13 analysis comes after you have established a pairing and
14 found a lack of parity.

15 THE WITNESS: Yes. If there is a lack of parity,
16 we go out and try to understand what was the perspective of
17 the buyer who bought a house at a lower price per square
18 foot and almost identical house.

19 MR. GROSSMAN: Let me ask you this. If you find
20 that there is parity, do you go to the house and see if
21 there were actually differences that should have caused less
22 parity and then figure out why they didn't?

23 THE WITNESS: That's correct. We inspect every
24 single one of these. We physically inspect all these sales.

25 MR. GROSSMAN: Okay.

1 THE WITNESS: And we also go up and bang on the
2 front door and talk to the household owner who bought that
3 property to find out why they paid more or why they paid
4 less per square foot than the home outside the viewshed.

5 MR. GROSSMAN: Well, what I=m getting at is you
6 just don=t do that for the ones where you found no parity.
7 You also do that for the ones where you found parity?

8 THE WITNESS: Oh, absolutely.

9 MR. GROSSMAN: Okay.

10 THE WITNESS: Oh, no, no. No. We=re not skewing
11 the database.

12 MR. GROSSMAN: I=m just asking. Okay.

13 THE WITNESS: We are not skewing the database.

14 MR. GROSSMAN: Okay.

15 THE WITNESS: We=re looking at every single pair
16 we can find, legitimate pair. Now, to explore that a little
17 further, to be proper, I can=t use the sale of a house on a
18 corner lot and compare it to a house that=s a mid-block lot.

19 MR. GROSSMAN: Right.

20 THE WITNESS: On Hampshire Greens, as an example,
21 the folks at Hampshire Greens look at that. Now, these are
22 -- there=s a dozen fairway homes.

23 MR. GROSSMAN: People in the audience can=t see
24 that so you want to hold it up for them too?

25 THE WITNESS: You can pass that around. The folks

1 at Hampshire Greens --

2 UNIDENTIFIED SPEAKER: We all drive by that.

3 MR. DONOHUE: They=ve all seen it.

4 THE WITNESS: There=s others. They all look the
5 same. It=s interesting because there=s at least 16 homes
6 that run parallel to the north side of 198, Spencerville
7 Road. These what we call standpipes are on the south side
8 of 198 but between the homes, there=s a fairway, then 198
9 and then these tucked up against the south side of 198.

10 MR. GROSSMAN: I think if we keep on referring to,
11 we need to mark those as exhibits if we=re going to refer to
12 them. Those are not in this neighborhood we=re talking
13 about.

14 THE WITNESS: That=s correct.

15 MR. GROSSMAN: You=re talking about examples of
16 where you=ve done studies, and you had mentioned that one of
17 them had --

18 THE WITNESS: Hampshire Greens.

19 MR. GROSSMAN: -- Hampshire Greens had those
20 standpipes.

21 THE WITNESS: Yes.

22 MR. GROSSMAN: And those are the standpipes you=re
23 referring to.

24 THE WITNESS: Yes. That=s correct.

25 MR. GROSSMAN: Okay.

1 THE WITNESS: There are about 16 homes that run
2 parallel to the north side of 198 that have views of this.
3 They=re different angles but they=re all looking out at
4 these.

5 MR. GROSSMAN: All right. Let=s mark it because
6 we keep on referring to it and I, the these is not clear in
7 the record. So that will be Exhibit 68.

8 MR. DONOHUE: Do you want to do 68 maybe (a) and
9 (b)?

10 MR. GROSSMAN: Yes. 68(a) and (b). And we=ll say
11 photos. 68(a).

12 (Exhibit Nos. 68(a) and (b) were marked
13 for identification.)

14 THE WITNESS: And, Mr. Grossman?

15 MR. GROSSMAN: Yes.

16 THE WITNESS: Those photos were dated Friday of
17 last week.

18 MR. DONOHUE: The 13th.

19 MR. GROSSMAN: Okay. You call those mushroom
20 standpipes?

21 THE WITNESS: They=re commonly referred to as a
22 standpipe.

23 MR. GROSSMAN: Okay.

24 THE WITNESS: But I call them mushroom, a mushroom
25 standpipe because that=s what they look like.

1 MR. GROSSMAN: All right. We'll call them
2 mushroom.

3 THE WITNESS: But that's my terminology.

4 MR. GROSSMAN: Mushroom standpipes.

5 THE WITNESS: The strict terminology is a water
6 standpipe.

7 MR. GROSSMAN: Hampshire Greens. I'll say i.e.,
8 not the subject neighborhood. Okay.

9 THE WITNESS: Another one that we studied now
10 twice is Clearview Estates in Howard County, but it's just
11 over the Montgomery County line. The history of this is
12 interesting. A dairy farmer milking Holsteins, was a farmer
13 in 1992, was on rough times. AT&T --

14 MR. GROSSMAN: I'm going to cut you off on this
15 because it is getting late.

16 THE WITNESS: Okay.

17 MR. GROSSMAN: And I don't want to keep people
18 here forever. So can we get, Mr. Donohue, get to the point
19 of what the testimony is.

20 BY MR. DONOHUE:

21 Q Why don't we do this. Mr. Thorne, you explained
22 to us that you studied, you conducted a total of 11 studies
23 of, impact studies on cell sites.

24 A That's correct.

25 Q All right. Can you give us a summary of what your

1 findings were from those 11 studies?

2 A Both buyers and sellers of homes within the impact
3 area were interviewed at several study locations. We found
4 no evidence that sellers or buyers of homes within the
5 visual impact area either discounted the price or
6 experienced extended marketing periods to execute a sale due
7 to the visual presence of a communication device.

8 Q All right. Mr. Thorne, the Montgomery County
9 Zoning Ordinance has a requirement, and it=s contained in
10 Section 59-G-1.21(a)(5) and it reads as follows. Applicant
11 must demonstrate that the proposed use will not be
12 detrimental to the use, peaceful enjoyment, this is the
13 important part, economic value or development of surrounding
14 properties or the general neighborhood of the subject site.
15 Is it your testimony as an expert in property valuation that
16 the proposed facility will not contribute to a devaluation
17 of the residential, of the property values in the
18 neighborhood?

19 A Given our analysis of the sales in the
20 neighborhoods, in this neighborhood from 2010 through the
21 end of 2011 with median home prices at roughly \$470,000,
22 it=s consistent with all of our other studies and prices
23 that we found when we did those studies so there would be no
24 negative impact on marketing period or selling price.

25 Q You explained earlier that the studies, obviously

1 different type facilities including the water tanks and also
2 the towers, some lit, some not lit, you explained different
3 type of support structures. Earlier today we talked about
4 the proposed design structure here, and it=s been styled as
5 a unipole. Do you have an opinion as to whether the unipole
6 would have an affect on your assessment of property
7 valuation? For example, does it change your, the statement
8 you just made?

9 A No. Our studies have been the traditional
10 monopole which in the view arch, would provide a wider arch
11 view. The monopole is only 30 inches as opposed to 8 to 12
12 feet when we look at the racks that would ray outside of the
13 pole. So if we found no damage or no impact, no negative
14 impact on a traditional monopole, there certainly wouldn=t
15 be any negative impact for a stealth device. And this is
16 only 115 feet. The lowest one we=ve ever studied is 120 all
17 the way up to over 200.

18 Q You=ve been to the Gibson property, is that
19 correct?

20 A Yes, I have.

21 Q And went to the portion of the property we=re
22 talking about where the proposed compound, the pole is to be
23 located?

24 A Oh, absolutely. Yes.

25 Q And based on that site visit, is there anything

1 inherent or non-inherent on that property that would change
2 the statement you just made about impact on property value?

3 A Since I=ve been working in this industry since
4 1996 or 16 years, I don=t think I=ve ever seen a site that
5 is this shrouded, this isolated from the community. Most of
6 my work is never quite, any of the proposals I=ve been
7 working on have never been this shrouded or this isolated
8 and lack of visibility as there is on this site.

9 MR. GROSSMAN: Shrouded, isolated meaning that the
10 proposed pole would be well screened from the community? Is
11 that --

12 THE WITNESS: The tree growth and the topography
13 is just tremendous around this site.

14 MR. GROSSMAN: You want to answer my question?

15 THE WITNESS: Yes.

16 MR. GROSSMAN: Is that yes an answer?

17 THE WITNESS: Yes.

18 MR. GROSSMAN: Okay.

19 BY MR. DONOHUE:

20 Q Very briefly, Mr. Thorne, you were here for the
21 testimony for Mr. Reid right after lunch, were you not?

22 A Yes.

23 Q And you heard our back and forth about his
24 assertions about property valuation, is that correct?

25 A That=s correct.

1 Q And Mr. Reid=s assessment was based on, at least
2 from my notes, was based on proximity of transmission
3 towers, electrical transmission towers. Is that your
4 recollection as well?

5 A Yes.

6 Q Okay. And would you, it=s clear to say you would
7 disagree with Mr. Reid=s assessment of property value?

8 A I do because of the studies that we=ve done even
9 on the high voltage overheard lines in Loudoun County.
10 They=re actually paying premiums because of the, it=s
11 considered recreational land adjacent to these homes. And I
12 should also note that in Clearview Estates where 57 homes
13 have an absolute clear view of this monopole, there were 37
14 listings in Clearview estates, which is north of Route 32 on
15 the west side of 108 just over the Montgomery County line,
16 the 37 listings, not one broker, and all 57 homes see this
17 pole, not one broker mentioned the existence of this
18 monopole. But what they do mention is the great views, the
19 good school districts and the great road network to get to
20 their employment centers.

21 MR. FLORES: I object, Mr. Examiner. Bernie
22 Flores. Mr. Reid is not here to --

23 MR. GROSSMAN: Well, you can=t -- okay. I don=t
24 think anybody can hear you on the microphone here so you
25 want to, you want to come forward, sir, and state what your

1 objection is?

2 MR. FLORES: I=m just saying that --

3 MR. GROSSMAN: State your name.

4 MR. FLORES: I=m Bernie Flores. I=m just saying
5 that Mr. Reid is not here to be able to answer or rebuttal
6 for what he=s stating here.

7 MR. GROSSMAN: Well, nobody --

8 MR. FLORES: For what he said before so.

9 MR. GROSSMAN: Nobody excluded Mr. Reid from the
10 room. He was welcome to be here as long as he wanted. So
11 he can testify, as witnesses often do, expert witnesses, as
12 to what his opinion is as to what another expert said, and
13 it=s perfectly appropriate for him to do so whether or not
14 Mr. Reid is still present in the room. Witnesses often
15 testify, by the way, when someone is not present in the
16 room. If they=re non-experts, there is something called the
17 rule on witnesses. Sometimes witnesses are excluded from
18 the room. But with experts, they=re usually not but he=s
19 not here. That=s nothing to do with his right to state his
20 opinion. So anyway, your objection is overruled for that
21 reason.

22 MR. FLORES: Okay.

23 MR. GROSSMAN: All right, sir.

24 MR. DONOHUE: Mr. Chairman, before I let Mr.

25 Thorne rest and, well, allow him for cross-examination --

1 BY MR. DONOHUE:

2 Q Mr. Thorne, there=s a publication that you and I
3 have circulated over the years and perhaps we ought to
4 submit that for the record. And tell us what that is.

5 A What we call in our industry the body of
6 knowledge, and these are peer-reviewed articles. Peer-
7 reviewed being that they have been submitted to an editorial
8 board for the publication that publishes these documents.
9 There are, I have four here. Very quickly, The Impact of
10 Communication Towers on Residential Property Values. This
11 was a study of lattice towers outside of Richmond. It=s
12 old. They did not use pure pairs.

13 MR. GROSSMAN: Well, before you describe this, I
14 have a little concern because I excluded Mr. Reid=s attempt
15 to introduce an article off the internet. I=m not sure what
16 that was but I think I=ll apply the same rule here and we=ll
17 just go with your testimony --

18 THE WITNESS: Yes, sir.

19 MR. GROSSMAN: -- as to your studies. I think
20 that would be a fairer way to proceed given my earlier
21 ruling with regard to Mr. Reid.

22 THE WITNESS: Yes, sir.

23 MR. DONOHUE: We=ll rest, Mr. Chairman.

24 MR. GROSSMAN: All right. Cross-examination?
25 Wow. We=ve got a lot of hands in the audience so we=ll

1 start with you, sir, Mr. Leeger.

2 CROSS-EXAMINATION BY MR. LEEGER

3 BY MR. LEEGER:

4 Q Mr. Thorne, thank you for coming. We appreciate
5 your expertise. You did 11 studies, is that correct, what
6 you said?

7 A Yes.

8 Q All of those were on cell towers, correct?

9 A That=s correct.

10 Q Were any of them in neighborhood locations? The
11 water towers you showed are actually outside of the
12 neighborhood. That=s why I=m concerned. Were the cell
13 towers actually located on the residential property in the
14 center of the neighborhood?

15 A Yes.

16 Q All 11?

17 A Except Hampshire Greens.

18 Q So 10 of the 11 were in neighborhoods.

19 A That=s correct.

20 Q Approximately, what were the size of the
21 populations in the studies, the number of pairs?

22 A As I said, my testimony is we had a minimum of
23 four to as many as eight different pairs for these studies.
24 Where there was enough activity, we would have sometimes
25 eight or ten different pairs. When sale activity was lower,

1 we would never conclude unless we had at least a minimum of
2 four pairs.

3 Q And that means four that are in parity. Parity
4 meaning that they are comparable and the adjustments are \$2
5 or less per square foot.

6 A We even compared pairs that weren=t on parity and
7 then investigated them so --

8 Q And that=s where the finished basement
9 conversation came into play.

10 A That=s correct.

11 Q Okay. So these are very small populations. We=re
12 not dealing with hundreds of sales. We=re dealing with a
13 few sales.

14 A On all of these, on all of these sites, we had
15 generally between 35 to, 35 to perhaps 45 or 50 different
16 transactions to look at but remember that these had to be
17 cold so that we have homes that sold within months of each
18 other.

19 Q And you said 30 to 60 days I believe. You kept it
20 a very short time period.

21 A It has to be -- because of economic slips up the
22 curve for increasing economic activity and slipping down
23 into the abyss, the trough that we entered in 2008, we have
24 to have sales that were sold within 30 to 60 days of each
25 other.

1 Q Your statement about desire in the market, that
2 some people prefer these things, is it safe to say that some
3 people don=t prefer these things?

4 A That=s correct.

5 Q So you=ve got people out there that say I might
6 want that but you also might not know how many drove by the
7 lot and said I=m not interested, I=m not even knocking on
8 the door. We don=t know how many those were, right?

9 A That=s correct.

10 Q So that=s an unknown. We know that these people
11 were willing because we had good information on that but we
12 really don=t know how many said I=m going down the street
13 from Clearview or whatever neighborhood and, you know, I
14 like the house on the other side of 32 better because I
15 don=t have to look at that pole.

16 A That=s driven by -- to a certain extent, that=s
17 true but it=s also driven by the days on market.

18 Q It=s just that, I=m just trying to get a handle on
19 the data.

20 A That=s fine. You=re correct.

21 Q And you have a lot of experience with luxury homes
22 and that=s wonderful. Two to \$3 a square foot on a million
23 dollar home versus a \$60,000 home, is there a difference in
24 who, the effect, the amount -- I kind of view it like, you
25 know, if Bill Gates goes and buys a Ferrari, it=s kind of

1 like the effect of my wife and I going to the movies. You
2 know? It=s the same out-of-pocket expense on what we do
3 tomorrow. Is it, you know, a couple dollars per square
4 foot. Are we dealing with the same effect on the
5 population? I don=t want to get in that half percent versus
6 the 99 and a half percent the world living right now, but is
7 there effect on the market that way?

8 A Even in the \$60,000 homes that we were dealing
9 with, house prices range from roughly \$85 per square foot
10 with the lot. In other words, we=re taking the price and
11 dividing it by the square footage of the home which includes
12 the lot. Everything is relative to that subdivision. And
13 if you have \$85.25 per square foot in proximity to the
14 monopole and you=ve got a home that sold for \$85.32 a square
15 foot, I consider that to have parity, and everything is, is
16 relative to the housing market that you=re in.

17 Q Based on your testimony, it=s safe to say you have
18 seen a lot of homes. Probably more than the average person.
19 Is that a fair judgment?

20 A How do you define the average person?

21 MR. GROSSMAN: I --

22 BY MR. LEEGER:

23 Q You know, you=ve gone out and you=ve looked at a
24 lot of home comparisons, you=ve made a business out of this,
25 correct? I=d like to ask your opinion. If you were buying

1 the house right next door to a house with a monopole in it
2 and you had the chance to buy one that=s three blocks away,
3 identical houses, completely, complete parity, which one
4 would you buy?

5 A I=m wireless connected so I guess I=d buy the one
6 next to the monopole.

7 Q Okay.

8 MR. DONOHUE: You asked.

9 MR. LEEGER: I did. It=s a fair question.

10 MR. DONOHUE: Fair question.

11 MR. LEEGER: It=s his opinion. I would say I have
12 a different opinion but that=s what makes the world go
13 around. I think we=ve got four people that I -- oh,
14 everybody. I didn=t look at the right moment.

15 MR. GROSSMAN: I guess since we -- given the
16 number of people we have who want to cross-examine this
17 witness, we ought to, and also, a number of people who wish
18 to testify, I think that we may have to consider going
19 through the cross-examination and then setting another date
20 to take all your testimony because I don=t think we=ll get
21 everybody in today. I suspect that=s the case. Yes, Mr.
22 Leeger.

23 MR. LEEGER: How does that affect the 15 day
24 window?

25 MR. GROSSMAN: Well, what will happen is the first

1 date that I have open now is towards the end of February so
2 what I would do, and in fact, it=s February 24th, and what I
3 would do is during that period of time, I would expect these
4 additional filings that we talked about to be made and I
5 would expect the responses to be made during that period of
6 time. In other words, I=d set a date by which time the
7 petitioners have to make their filings and the date by which
8 there has to be a response, and then we come back for the
9 final hearing date on the 24th. That way, that would kind
10 of subsume the 15 days. Yes, Mr. Karzai.

11 MR. KARZAI: Point of information. I mean, if the
12 cell company had found the perfect expert, can we use that
13 time to find our own perfect expert to rebut this analysis?

14 MR. GROSSMAN: Well, yes. You can call an expert
15 the next, when it=s your -- yes, certainly. If you don=t
16 have an opportunity to put on your case today, then, I mean,
17 this is the hearing date but since it=s going to have to be
18 continued over, you can have somebody come in.

19 MR. KARZAI: Thank you.

20 MR. GROSSMAN: Okay.

21 MR. LEEGER: Do you want to pick or do you want me
22 to?

23 MR. GROSSMAN: Well, go ahead. Go ahead.

24 MR. ALBERT: Okay. Alan Albert.

25 CROSS-EXAMINATION BY MR. ALBERT

1 BY MR. ALBERT:

2 Q Mr. Thorne, thank you. Sixteen years in the
3 business and 11 studies, is that correct?

4 A There=s probably a total of --

5 Q You testified 11, is that correct?

6 MR. GROSSMAN: Well, let him finish answering.

7 THE WITNESS: I said there were 11 properties.
8 There were multiple studies of those properties. We came
9 back at subsequent periods. Some of these early studies
10 were in 1998, 1999 and we refreshed those studies in 2006,
11 '10 and '11. So we went back and refreshed the information
12 that we had in prior studies. So, yes. There=s 11
13 individual studies.

14 BY MR. ALBERT:

15 Q Now, the ones --

16 A But there were multiple studies of those same
17 sites.

18 Q To further another question off of your point,
19 those refresh studies, are they all for those 11 that you
20 stated?

21 A Yes.

22 Q All right. Are you here on -- it must be a
23 terrific living if you can only --

24 MR. GROSSMAN: Well, let=s ask a question.

25 BY MR. ALBERT:

1 Q Are you here on your own free will and given time
2 or are you being compensated for your testimony?

3 A I'm being paid for my testimony.

4 Q Thank you very much.

5 MR. GROSSMAN: All right. Back row. Okay, sir.
6 Come forward.

7 CROSS-EXAMINATION BY MR. POTTS

8 BY MR. POTTS:

9 Q I wanted to clarify on those 11 --

10 MR. GROSSMAN: State your name so the court
11 reporter gets it down.

12 MR. POTTS: Oh, John Potts. Thank you.

13 BY MR. POTTS:

14 Q Thank you. I just wanted to clarify. For those
15 11 studies that I understand that were refreshers with 11
16 basic locations where we had cell towers, so who
17 commissioned those studies? Who did you work for to do, to
18 execute those studies for?

19 A I indicated that these studies were paid for by
20 AT&T and Verizon.

21 Q Okay. Thank you.

22 MR. HUDSON: McKinley Hudson.

23 CROSS-EXAMINATION BY MR. HUDSON

24 BY MR. HUDSON:

25 Q Sir, how many impact studies you've done for T-

1 Mobile where in your opinion was that there was a negative
2 impact?

3 A I=ve never done an impact study positive or
4 negative for T-Mobile. They=ve all been done for Verizon
5 and AT&T.

6 Q Okay. Of those that you=ve done for Verizon and
7 AT&T, how many of those have been as I stated before, where
8 there was a negative impact?

9 A I have to clarify what negative impact. That
10 means every single one of our pairs showed a negative
11 impact. I=ve never seen that occur.

12 Q But you have --

13 MR. GROSSMAN: I guess he=s asking have there been
14 negative impacts among the pairs.

15 THE WITNESS: Yes. Well, but had nothing to do
16 with monopole. I=m sorry but this --

17 MR. GROSSMAN: Explain it. Sure.

18 THE WITNESS: If I come back with a rhetorical
19 answer, I=m sorry.

20 MR. GROSSMAN: All right.

21 THE WITNESS: As I said before, we studied the
22 Hunt at Fairfax Station twice. This is 199-foot monopole
23 with five carriers under it with the racks. The first
24 study, went down the row of homes, compared to other homes
25 in other parts of the subdivision, no damage. No impact.

1 Went back four years later and studied the Hunt at Fairfax
2 Station a second time. Now we find that the homes that have
3 a view of the monopole were all turning out below. There
4 was a negative impact. However, what happened between the
5 first study and the second study was Route 123 in the first
6 study was a two-lane with shoulder highway. We came back
7 and did the study a second time and now it=s a four-lane
8 median divided highway with cars going 60, 70 miles an hour.

9 We talked to, there were 10 homes along this road
10 that had an absolute clear view of this 199-foot monopole.
11 Knocking on the doors and finding out what=s going on and
12 talking to the sellers and the buyers, the view of the
13 monopole wasn=t the issue. It was the noise. It was the
14 noise from 123 that drove the difference in those prices.
15 It had nothing to do with the monopole.

16 MR. GROSSMAN: All right. So you detected a
17 negative, a decline in the values of those properties that
18 were near the monopole but you attribute it, based on your
19 interviews, to the fact that the nearby highway had
20 expanded.

21 THE WITNESS: The noise was a, was a factor in the
22 price reduction compared to other homes that were distant
23 from the highway. The view of the monopole wasn=t the
24 issue.

25 The second one is there=s, there=s a house at the

1 Bullis School which is a peculiar home. It=s not the two-
2 story colonial. It=s a one, as you view the front of the
3 house, it=s on level with the ground but because of the
4 slope of topography, the second story views away from the
5 monopole and the price has always been low. And the reason
6 is because of the design. You walk into the front door of
7 the home, you=re on the bedroom level of the home. You have
8 to walk down to get to the living room, the kitchen, the den
9 and so forth and whereas in this case, you walk in the front
10 door, you=re in the second level of a typical house which is
11 a bedroom. I mean, it=s bedrooms and baths. There=s no,
12 there=s no kitchen, there=s no dining room, there=s no hall
13 entrance. It=s just a bad design. And, yes. That home
14 sees the monopole. But that=s the only analog in that pair
15 that showed a lower price.

16 MR. GROSSMAN: You answered Mr. Hudson=s question
17 about whether you=ve done studies for T-Mobile and you
18 indicated you had not but I, I assume you don=t mean you
19 haven=t testified for T-Mobile. You=ve testified in cases
20 on behalf of T-Mobile, is that correct?

21 THE WITNESS: I=ve testified on behalf of T-Mobile
22 on proposed sites like I am today. I=ve also testified for
23 AT&T, Sprint, Nextel as well.

24 MR. GROSSMAN: Just the studies upon which you=re
25 relying were done for other carriers.

1 THE WITNESS: That=s correct.

2 MR. GROSSMAN: Okay. Go ahead, Mr. Hudson.

3 BY MR. HUDSON:

4 Q With your testimony with respect to T-Mobile, are
5 you saying that the experience that you gained with AT&T and
6 Verizon fits the T-Mobile model as well?

7 A Well, I have to look at the, the morphology as, as
8 Curtis Jews has said. The morphology. In other words, I
9 have to look at these neighborhoods that I=ve studied, the
10 prices of the homes, the height of the poles and compare our
11 studies with what=s proposed here. We=ve never studied a
12 stealth device. We=ve only studied the typical racks of
13 monopoles. And if a racked monopole with four or five
14 carriers on it has not had an impact, I think intuitively
15 one would conclude that 30 inches 115 feet in the air as
16 opposed to 12 feet is a different view arch, much less of a,
17 of an arch view and it would not have an impact. So I=m
18 comparing our studies to this proposed site and I don=t see
19 any anomalies here at all.

20 Q But you did -- well, so you=re reaching a
21 conclusion in this case but not necessarily based on the
22 information that=s being presented here in support of the T-
23 Mobile request, is that correct? In other words, you=re
24 taking your past activities, past information in other areas
25 and then you=re drawing a conclusion that it also applies to

1 this situation. Am I seeing the issue correctly?

2 A That=s correct.

3 Q My next question is the 11 locations that you=ve
4 identified, that you spoke to, where are those 11 locations?

5 A Well, two of them are Montgomery County. One is
6 at Bullis School and one is at Hampshire Greens.

7 Q The Bullis School one, is that an area that=s
8 comparable socio-economically with the area that we=re
9 talking about today?

10 A It=s in, it=s in Potomac. House prices are
11 higher.

12 Q Potomac.

13 A The house prices are higher. But Hampshire Greens
14 is on par.

15 Q That=s all I have.

16 MR. GROSSMAN: How tall are the trees, Mr. Thorne,
17 that are screening the cell tower in this case? You were in
18 the neighborhood so that=s why I ask.

19 THE WITNESS: I would guess that they=re in the 50
20 to 60 foot range but I think because of the topography and
21 the peculiarities of this, and if you=re familiar with
22 parallax measurements or parallax views, the homes closest,
23 closest, that live in close proximity, you know, they might
24 see it in the winter. In the summer, they=ll, I mean, seven
25 months out of the year, they=re never going to see this

1 monopole. The ones closest are not going to see it.

2 The only way I could possibly see it is I went all
3 the way up Perryville, all the way up. It=s a, I mean, the
4 separation between where this site is and the top of
5 Perryville has got to be 100 feet. They, at the distance of
6 5 or 6 or 800 feet, they might see the top of this little
7 tiny, 30 inches 1,000 feet away or maybe 800 feet away.

8 MR. GROSSMAN: All right. Yes, Ms. Stine.

9 MS. STINE: Thank you.

10 CROSS-EXAMINATION BY MS. STINE

11 BY MS. STINE:

12 Q Okay. I=ve heard you talk about these studies
13 that you=ve done and repeatedly, I heard you mention things
14 that I consider not necessarily residential. For example,
15 you mentioned Bullis. Could you tell us where the cell
16 phone tower is located that was the source of your study
17 there?

18 A The Bullis School monopole is right at the edge of
19 Stapleford Hall Court, Drive. It=s right on the edge of the
20 subdivision. But as you drive down Stapleford Hall Court,
21 the drive, the pole is visible to all the homes on that, on
22 that drive. The Bullis School pole is located on the Bullis
23 School site within 175 feet, actually, the physical monopole
24 itself is within like 50 feet of the property line but the
25 pole, the 120-foot pole were to fall over, they don=t fall,

1 they fold, but anyway, the distance is like 150 feet from
2 the rear deck of this very nice home.

3 Q Okay. So the Bullis School cell tower is actually
4 on the Bullis property. It=s not buried on a private
5 residential property in the neighborhood itself. If I
6 recall correctly, Bullis is out near Falls Road?

7 A That=s correct.

8 Q A main thoroughfare through the area.

9 A That=s correct.

10 Q Okay. You also mentioned that you did a study in
11 the Jewish School for Girls. Could you describe where that
12 tower was located?

13 A Well, it=s on the school property but the
14 subdivision surrounds the school so all the homes within
15 that subdivision that almost surrounds the entire school is,
16 has a visibility of that pole.

17 Q So when you say surrounds the school, are you
18 talking about that the neighborhood does not have any depth,
19 that they=re all in a circumference immediately around the
20 school, or is there depth to the neighborhood?

21 A The school is surrounded by residential property.

22 Q Okay. So in that case, the cell phone tower is
23 not buried in the back of a neighborhood, is that correct?

24 A No, it=s not.

25 Q Okay. You also mentioned Fairfax Station. Could

1 you describe where that one is located?

2 A That=s in south central Fairfax County on the
3 southeast side of 123 as it=s going almost directly
4 southwest at that point. It=s at the end of the
5 subdivision. The cul-de-sac ends right at an abandoned 7-
6 Eleven where this monopole exists. The entire subdivision
7 road that runs down to the pole, all the homes on the west
8 side of that road see this 199-foot pole.

9 Q Okay. So again, this, this particular cell phone
10 pole is not buried in the back of a residential neighborhood
11 on private property but rather, in a commercial piece of
12 property near a thoroughfare, is that correct?

13 A You can=t get access to the 7-Eleven. The new 123
14 has either land-locked the 7-Eleven or it doesn=t have any
15 direct access.

16 MR. GROSSMAN: Well, that wasn=t her question.

17 BY MS. STINE:

18 Q That=s not my question.

19 MR. GROSSMAN: That wasn=t her question.

20 THE WITNESS: The monopole is on a commercial
21 property but the cul-de-sac of the primary road leads right
22 to the center of the monopole at the end of that residential
23 street.

24 BY MS. STINE:

25 Q Okay. So far --

1 MR. GROSSMAN: Ms. Stine, let me ask you a
2 question. If in fact, let=s assume the same is true of all
3 of these studies, but the pole is visible, more visible from
4 the residential areas around it than it is in your
5 neighborhood, isn=t that a worse situation than you have
6 here?

7 MS. STINE: You know, without getting into too
8 much testimony here, it is of my opinion that people like
9 myself would not purchase a home near a visible school or
10 commercial property and therefore, his study doesn=t cover
11 some aspects of --

12 MR. GROSSMAN: All right. I understand. Sorry to
13 interrupt you. Go ahead.

14 MS. STINE: Okay.

15 BY MS. STINE:

16 Q Based on your other studies, how many of them
17 would you say are similar that they, the cell tower was
18 located at the back of a neighborhood on a private
19 residential property buried in the back of the neighborhood?

20 A Well, certainly the Bullis School was at the back
21 end of the neighborhood. It was, Stapleford Hall Court
22 Drive drives right up to the cul-de-sac in the Bullis School
23 property. Clearview Estates, the monopole is right in the
24 center of the subdivision. This was a 120 acres of
25 pastureland where 57 homes were built. That=s right in the

1 middle of the subdivision.

2 Q Okay. So the Clearview Estates, you're saying
3 it's in the middle of the subdivision but we've already
4 established that the one on Bullis School property is
5 actually on a school property and not buried in the back of
6 a residential neighborhood on residential property.

7 A The school is zoned residential. The Bullis
8 School has a residential zone. Otherwise, it wouldn't be
9 there.

10 Q Okay. All right. So as an expert in your field,
11 you probably are -- do you make yourself aware of other
12 studies?

13 A I was about ready to mention some of these studies
14 and -- yeah. I'm aware of them.

15 Q Okay. Thank you. So what studies have you
16 reviewed that are contrary to your observations in your own
17 studies?

18 A I think you can find negative comments about the
19 presence of power lines, water standpipes and cellular
20 telephone monopoles on the web. The issue is that some of
21 them are clearly done and not peer-reviewed.

22 Q Are you aware of the studies done by Dr. Sandy
23 Bond?

24 A No. That name doesn't -- I'm not familiar with
25 the name.

1 Q So you=re not aware of the Bond Xue Proximity
2 Impact Study, the Bond Wang Transaction-Based Market Study
3 or the Bond Beamish Option Survey Study?

4 A No, I=m not.

5 Q Okay.

6 MR. GROSSMAN: Let me suggest if you plan to
7 introduce or attempt to introduce those studies in your
8 testimony when you get an opportunity to testify, Ms. Stine,
9 I suggest that the way to do this is to have you supply
10 copies to the petitioner=s counsel at least 10 days before
11 the resumption of the hearing, and I will also have him
12 supply copies to you of the studies that Mr. Thorne was
13 about to introduce and then we=ll allow all those studies to
14 come in if that=s how you want to proceed. I=m just trying
15 to be fair to both sides here and not have any surprises so
16 that both sides can evaluate this material.

17 MS. STINE: Okay. So I=m not sure I really, I may
18 have gotten an answer to my question. I=m going to ask it
19 again just for clarity.

20 MR. GROSSMAN: Okay.

21 BY MS. STINE:

22 Q Have you had an opportunity to review studies that
23 say that home values are decreased?

24 MR. GROSSMAN: By a cell tower nearby?

25 BY MS. STINE:

1 Q By a cell tower or other type of object like your
2 mushroom, the whatever those things are called.

3 MR. GROSSMAN: Standpipes.

4 BY MS. STINE:

5 Q Stacked, whatever it is. Have you had opportunity
6 to look at these?

7 A I=d be delighted if someone can put a valid peer-
8 reviewed study in front of me. I=d be delighted to read it.

9 Q Okay. So --

10 MR. GROSSMAN: But that doesn=t exactly answered
11 it. But have you?

12 THE WITNESS: I have not.

13 MR. GROSSMAN: Okay.

14 BY MS. STINE:

15 Q Okay. So all right. Thank you very much.

16 MR. GROSSMAN: All right. We have others. All
17 right. Well, let=s start with Mr. Karzai. We=ll go to the
18 other side of the room. Fair distribution here.

19 CROSS-EXAMINATION BY MR. KARZAI

20 BY MR. KARZAI:

21 Q I=m just a little bit, I mean, I have, I=m a
22 computers scientist so I=m not going to, you know, submit my
23 resume here but since you are talking about models here and,
24 you know, you=ve got a methodology and all of that stuff,
25 this, the more I hear this, I mean, my question is it seems

1 that this, this model is very narrow. I mean, you=re
2 talking about six to, five to six pairs, you know, I mean,
3 out of such a huge pool. And then, and I have to step one
4 backwards, you know, all of your studies are commissioned by
5 the mobile industry so there=s a fracture of self-serving --

6 MR. GROSSMAN: Well, this is not an opportunity
7 for you to testify.

8 MR. KARZAI: Exactly. Exactly.

9 MR. GROSSMAN: This is just if you have a
10 question, you can ask the question.

11 BY MR. KARZAI:

12 Q So the question is, you know, how did you come up
13 with this methodology? I mean, based upon what scientific
14 method that was, you know, done by some university, by some,
15 you know, a scholar in the field and that, you know, and
16 kind of endorsed this, this method as, you know, a
17 statistician, you know, I mean, what was the process?

18 MR. GROSSMAN: All right. Well, that=s a good
19 question. Go ahead, Mr. Thorne.

20 THE WITNESS: Well, I think I know, as a scientist
21 I=m not, but I understand his perspective. Generally what
22 happens in our industry is appraisers can only rely on
23 statistics and, or have some in the past used statistics as
24 a basis for rendering their opinions. My professors when I
25 went to school basically said you have no credibility.

1 There=s no statistical credibility unless you have 200, a
2 minimum of 200 samples.

3 There is a study but I can=t, I can=t reference
4 it, I have it, there=s 7500 points. We, in the appraisal
5 industry, were doing some impact studies. We have to take a
6 limited amount of data. We can=t fabricate it, we can=t
7 manipulate it. We don=t want to manipulate it because we=ll
8 be accused of bias. The concept of pure pairs, in other
9 words, absolutely no adjustments, it=s a price here and it=s
10 a price outside the viewshed, that=s a pure pair. That is
11 part of the curriculum in the Appraisal Institute.

12 BY MR. KARZAI:

13 Q But I=m sorry. I --

14 MR. GROSSMAN: But you didn=t use pure pairs in
15 the sense that you went in afterwards and talked to the
16 people. You eliminated the purity of the pairing, didn=t
17 you?

18 THE WITNESS: No, I did not. No, I did not. No,
19 I did not.

20 MR. GROSSMAN: Well, why not? Why doesn=t, how is
21 it still a pure pair if you=ve then varied it by other
22 factors, after talking to them, you varied it by whether or
23 not there=s a road nearby or whether or not -- how does that
24 remain a pure pair? I don=t understand that.

25 THE WITNESS: That=s the difficulty of these

1 assignments. The luxury of having 200 data points just
2 simply does not exist.

3 MR. GROSSMAN: I understand. I'm not, I'm not
4 saying that your point is incorrect, your conclusion is
5 incorrect. All I'm saying is I don't think you can
6 characterize them as a pure pair anymore once you've thrown
7 in all these other conditions. You don't have what are
8 called ceteris paribus conditions. You don't have that
9 here.

10 THE WITNESS: Mr. Grossman, the only assignment or
11 area that we had this issue was the second study at Fairfax
12 Station where a highway influenced the outcome and we can't
13 -- and those pairs, we had to drop because of the road
14 noise. All of these others were comparing a pure pair using
15 an analysis of one sale against another sale.

16 MR. GROSSMAN: Okay. And --

17 THE WITNESS: And I wish I had 200 data points. I
18 don't.

19 MR. GROSSMAN: Right. But I mean, the fact that
20 you wish that you had them doesn't make the smaller study
21 statistically valid. But I'm not saying that your
22 conclusion is incorrect. You're entitled to give your
23 expert opinion based on whatever your methodology is. The
24 weakness of the methodology or the weaknesses of the
25 methodology are pointed out by the cross-examination. I

1 mean, so.

2 THE WITNESS: We had two, when we first started
3 this in 1996, we had two methodologies that we could use.
4 One is the one that we've used and we had to use this for
5 the following reasons. The other is the before and the
6 after. Now, before the monopole went up, what were house
7 prices doing, what were the prices per square foot of those
8 homes? The after then is to compare the sale of those homes
9 when now, now they are proximate or next to or at a view at
10 some later date, two to three years. You'd have to wait two
11 to three years after the monopole was up. Moreover, in that
12 before and after, we needed to compare home prices before
13 public notification so because if the public became aware of
14 it, that's not a before, so it didn't work.

15 MR. GROSSMAN: I'm not saying, I'm not saying, Mr.
16 Thorne, that you didn't use the best available method to,
17 reasonably available method to reach your conclusions or
18 that your conclusions are incorrect. I'm just saying that
19 there are statistical analytical weaknesses in the
20 methodology which you recognize I think by saying you wish
21 you had those points.

22 THE WITNESS: Absolutely. I --

23 MR. GROSSMAN: But I --

24 THE WITNESS: You know, there's a 11. There's 11
25 here. There's not one, there's 11.

1 MR. GROSSMAN: In a lot of ways still, we're still
2 arguing about something that is only indirectly relevant
3 here because the question is not whether cell towers in
4 general, as I have explained a couple of times here, whether
5 cell towers in general affect property values. That's not
6 really the question for me. The question for me is whether
7 this particular cell tower has non-inherent characteristics
8 or adverse affects so, you know, a lot of this argument is
9 not really dispositive of what I have to review. But
10 anyway, it's just part of the ball of wax to be considered
11 here in evidence. Any further questions, Mr. Karzai?

12 BY MR. KARZAI:

13 Q I mean, in view of what you just stated, I don't,
14 you know, kind of beat this whole point. I was going to ask
15 whether since this whole peer review was being kind of
16 emphasized, peer review and also publications, I need to
17 know who the peers are. I mean, if they're the like-minded
18 entities who cater to the industry, then that's not a peer
19 review, that's something else. Publications, you need to
20 find out what is the intellectual level of these
21 publications. You can find a dime a dozen on the internet.
22 So, I mean, these are all of these facts that are being
23 thrown around leads to the question but again --

24 MR. GROSSMAN: Well, I didn't allow the
25 publications in.

1 MR. DONOHUE: Yes. It=s not in the record.

2 MR. GROSSMAN: I didn=t allow the publications in,
3 in fairness but since Ms. Stine indicated that she had some,
4 are you presumably wanting to introduce yours?

5 MS. STINE: Sure.

6 MR. GROSSMAN: Okay. Well, I think that if she=s
7 going to be introducing hers, I=m going to say that I=d ask
8 Mr. Donohue to make available the studies that Mr. Thorne is
9 relying on. We=ll let them all in for whatever weight
10 they=re worth at the next hearing session.

11 MR. SAPHIER: Does that include Mr. Reid=s
12 document?

13 MR. GROSSMAN: I will look at Mr. Reid=s document
14 too and let that in for whatever weight that=s worth if
15 that=s where we=re going with this. Once again, I have to
16 tell you these are -- I=m not going to do an extensive
17 analysis of these studies myself because I think that their,
18 their impact on what I have to consider is very tangential.
19 I won=t say that inherent characteristics don=t get factored
20 in as well because you can, if you have a combination of
21 non-inherent and inherent characteristics, that can have an
22 impact.

23 But there must be some non-inherent
24 characteristics of the, or non-inherent adverse affects if
25 you will of this, this proposed cell tower in order for the

1 application to be denied under the statutory language. But
2 you can have a combination of inherent and non-inherent
3 characteristics that have that result. In any event, it=s a
4 more complex kind of evaluation than you might expect just
5 from looking at some of the statutory language when you read
6 it together but anyway, I think your point is well-taken.

7 All right. Other people with cross-examination
8 questions? Doctor, you want to come forward? Dr. Saphier.

9 MR. SAPHIER: Thank you.

10 CROSS-EXAMINATION BY MR. SAPHIER

11 BY MR. SAPHIER:

12 Q From the three studies that you mentioned, the
13 cell towers were on, I=ll call it public property, either a
14 school or something else. They were not on the land of a
15 single-family home for example, is that correct?

16 A Except for Clearview Estates which is, the pole is
17 right in the middle of a subdivision, and the compound and
18 the leased area was coterminus with his property line.

19 Q So but it wasn=t within his property line. It was
20 coterminus you=re saying so it was also on what I=ll call
21 public property, either a school or a 7-Eleven or something
22 else. It was not 100 percent within a single-family
23 residence property.

24 A Of course not.

25 Q Of course not. This one is. That makes it

1 automatically not inherent I would think but that=s an
2 opinion. I=m sorry to testify. Okay.

3 MR. GROSSMAN: I=ll strike it then.

4 MR. SAPHIER: Thank you.

5 BY MR. SAPHIER:

6 Q Okay. You --

7 A Actually, I have a correction. I have a
8 correction. All of the three lattice towers in Kent and
9 Queen Anne Counties, they=re all on residential farm
10 property. They were compounds within the farm.

11 Q Not in Montgomery County though, right?

12 MR. GROSSMAN: By the way --

13 THE WITNESS: As I understand, I think Kent and
14 Queen Anne are in America.

15 BY MR. SAPHIER:

16 Q They=re not in Montgomery County, right?

17 A But they=re in America.

18 Q They=re not in Montgomery County. All right.

19 A They=re in America.

20 MR. GROSSMAN: All right, all right. Gentlemen.

21 BY MR. SAPHIER:

22 Q You had mentioned --

23 MR. GROSSMAN: Dr. Saphier, and the fact that they
24 may be different from all of his studies doesn=t make this
25 cell tower non-inherent in terms of its, so that=s --

1 MR. SAPHIER: Okay.

2 BY MR. SAPHIER:

3 Q You mentioned that, you held up a document that
4 had 37 listings and not one broker mentioned the unipole.
5 Would you agree that the brokers are trying to sell houses?

6 A That=s how they make a living.

7 Q Yes. Okay. And they said it was a wonderful
8 view?

9 A Yes, they did.

10 Q And they never mentioned the unipole.

11 A The monopole, they did not.

12 Q Okay. Do you think that might just perchance be
13 because mentioning the unipole would send buyers elsewhere
14 and therefore, decrease the value of the property?

15 A Any literate person who is not blind running
16 through the subdivisions of these streets in this Clearview
17 Estates is going to see it. You see it from the highways,
18 you see it from route, from Route 32 and 108 as well as
19 every single street in the subdivision.

20 Q You mentioned that when you went back to do one of
21 these studies and the property values of those who could see
22 the pole were sold for less money, you asked them why and
23 they said because of the moved 123 I think it was. Did you
24 go to the houses that sold for more money and ask them why
25 they paid more?

1 A We interviewed every -- in the second study, we
2 had to review every single one of those who comprised theirs
3 to understand what was, what was occurring.

4 Q So you did interview those who paid more?

5 A Yes.

6 Q Okay. Did you -- normally, when two houses sold
7 for precisely the same, because you seemed to give
8 conflicting information on this, I=m going to try and
9 clarify it.

10 MR. DONOHUE: Excuse me. I=m going to object.
11 Ask him a question.

12 MR. SAPHIER: You=re right. I apologize.

13 MR. GROSSMAN: Sustained.

14 MR. SAPHIER: Okay.

15 BY MR. SAPHIER:

16 Q When you had two houses selling for within your \$2
17 square foot limit, you, did you go and examine, that is
18 interview, I=m sorry, interview the two buyers of those two
19 houses and ask them why they paid for what they paid for?

20 A Understanding the terms of the contract to
21 purchase the home, the perspective about the home and the
22 neighborhood. If each of those --

23 Q So you did not go interview them.

24 MR. GROSSMAN: Try --
25

1 THE WITNESS: Yes, I did.

2 MR. GROSSMAN: Okay.

3 THE WITNESS: I said we went to interview and --

4 MR. GROSSMAN: That was the question he asked.

5 THE WITNESS: Yes. I interviewed, that=s correct.

6 BY MR. SAPHIER:

7 Q Okay. So in every single case of a pairing,
8 regardless of whether it came out the same price within your
9 \$2 square foot range or not, you interviewed every single
10 buyer of every single one of those homes.

11 A No, I did not.

12 Q No, you did not. So you don=t know then, the ones
13 you didn=t interview, what might have affected their
14 purchase?

15 A If there was parity in some of the pairs, in some
16 of the sites, we did not interview them.

17 Q That=s what I was trying to get at. Thank you
18 very much. You said, if I heard you correctly, that for
19 parity, the square foot includes the lot, is that correct?

20 A It=s the sale price divided by the living area of
21 the home.

22 Q So it doesn=t include the lot?

23 A It=s a, it=s the sale price divided by the living
24 area of the home which includes the lot. It=s a common
25 house, it=s a common analysis used by all house appraisers.

1 Q What do you mean by it includes the lot because I
2 don=t understand?

3 A The sale price included the price for the home on
4 the lot so you take the sale price, which includes the lot,
5 and the home and divide by the living area to develop a
6 price per square foot of the living area which includes the
7 land. It=s a common appraisal practice for all house
8 appraisers.

9 Q Okay. But you only divide it by the square foot
10 of the living area of the house itself.

11 A That=s correct.

12 Q Okay. Thank you.

13 MR. GROSSMAN: Anybody else? Mr. Coles.

14 MR. COLES: Do I get a gold star for coming up and
15 asking so many questions.

16 MR. GROSSMAN: For brevity, you=ll get a gold
17 star.

18 MR. COLES: Okay. Brevity. Wow, that=s a hard --

19 MR. GROSSMAN: I=ve never earned one of those
20 myself so.

21 MR. COLES: That=s all right. Okay. Well, we may
22 be in the same bungalow. Okay.

23 CROSS-EXAMINATION BY MR. COLES

24 BY MR. COLES:

25 Q Just a few quick questions. Have you ever been

1 commissioned by any residents of a neighborhood or any
2 homeowner associations to do the impact studies?

3 A Yes. And I told them that I=ve done these studies
4 and -- it was a proposed monopole in Bethany where I have a
5 second home and Bethany Beach is entertaining the concept of
6 a proposed monopole and I was viewed as being an excellent
7 candidate to claim that that monopole would have a negative
8 impact on property values. Given my studies, I cannot
9 contradict what my evidence has shown and I told them that I
10 cannot, could not undertake the study.

11 Q So is it fair to say that in your opinion, based
12 upon your studies, you conclusively support that cell phone
13 towers do not affect values of residential property.

14 A That=s absolutely correct.

15 Q And let me go back to the parity issue, some of
16 what Stu was just asking about. You used a range of \$2 to
17 \$3 a square foot to determine whether a, two homes or
18 similar homes, paired homes are within parity, correct?

19 A That=s correct. But as you get down into the
20 house prices on the Eastern Shore, which are generally below
21 200,000, I would not accept a marginal difference of \$2 per
22 square foot. It would have to be more than narrow because
23 we=re dealing with lower scaled numbers. When you get above
24 500,000 to a million, million and a half, \$2 million, there
25 can be a slight difference that might edge up the two to \$3

1 per square foot but not in the lower priced housing.

2 Q Okay. So why don=t you use a percentage instead
3 of a straight two or \$3 per square foot?

4 A I guess you can but I prefer to look at the dollar
5 amount rather than the percentage.

6 Q Would you say that you could actually incur some
7 large swings in value by using that method, meaning that if,
8 let=s take a similar home in our neighborhood that=s 3600
9 square feet. If you=re using \$3 a square foot, that=s a
10 difference in value about \$10,800. But if I had a larger
11 home that was 5, 6,000 square feet, that difference in value
12 would be a much larger number even though the home price
13 could be the same.

14 A To a degree, you=re correct but when I look at
15 the --

16 THE WITNESS: Oh, you think I can=t see?

17 MR. DONOHUE: It might help.

18 THE WITNESS: When you look at the max and
19 minimums and the medians that we have in 35, 36 sales that
20 occurred between January 1 of 2010 and December of 2011, the
21 median price is \$195 per foot. Now, the size of the homes
22 range between a median of 2300 square feet up to a maximum
23 of 4,000 square feet so you=ve got a fairly large
24 discrepancy in price, in size of homes. I=d have to be very
25 careful if I were to make a paired analysis here because of

1 these swings between what=s a maximum and what=s a minimum
2 in terms of home size and the median price of \$195 a foot.

3 BY MR. COLES:

4 Q And what data are you looking at? What homes are
5 those?

6 A These are the homes that were available from MLS.

7 Q And this is from -- are these sold properties or
8 are these --

9 A Sold.

10 Q Okay. And this is from 2010 to 2011.

11 A Correct.

12 Q Okay. So based upon what you just said, then
13 there=s, square foot prices range from, let=s arguably say a
14 couple thousand square feet to 4,000 square feet.

15 A The median of these sales, the median size of the
16 home was 2300.

17 Q Right.

18 A The maximum size was 4,000 which is twice.

19 Q Okay.

20 A But the maximum price, if it wasn=t for the
21 smallest home, is \$593 a foot. I=d question that. But
22 this, the median price was \$195.

23 Q But there=s some variance. My question was using
24 that methodology that you=re using, that you will get some
25 meaningful variance in terms of value, values in parity.

1 A That=s correct.

2 Q I=m kind of a common sense type of person.

3 (Discussion off the record.)

4 BY MR. COLES:

5 Q So I --

6 MR. GROSSMAN: Let=s move it along here because

7 it=s --

8 MR. COLES: I=m going to speed it up.

9 BY MR. COLES:

10 Q It=s a stupid question I=m going to ask anyway.

11 You=re familiar with the law of supply and demand, correct?

12 A Oh, absolutely.

13 Q Okay. So if there is less of a demand in terms of

14 housing stock, okay --

15 A I=ll help you out. It=s either a seller=s market

16 or it=s a buyer=s market. When demand is low --

17 Q That=s not where I=m leading.

18 A Okay.

19 Q That=s not what I=m asking. If there=s less of a

20 demand based upon a single asset, I=m not talking about a

21 market, talking about a single asset, value will go down,

22 correct?

23 A Lower demand, lower price.

24 Q And you asked earlier if, I wanted to just re-ask

25 this question. Given --

1 MR. GROSSMAN: No, no. We don=t want to re-ask
2 any questions.

3 MR. COLES: I=m going to ask it a different way.

4 MR. GROSSMAN: No. We don=t want to have -- we
5 really want to bring it to a close. People have to --

6 MR. COLES: This is my last question.

7 MR. GROSSMAN: All right. Go ahead.

8 MR. COLES: Okay.

9 BY MR. COLES:

10 Q If, given that you have proper cell phone coverage
11 in your house --

12 MR. DONOHUE: Objection. This is not the witness
13 to ask about levels of coverage.

14 MR. GROSSMAN: Well, let him finish the question
15 before you state the objection. Go ahead.

16 MR. COLES: Is there -- okay.

17 MR. GROSSMAN: Go ahead. Ask your question.

18 BY MR. COLES:

19 Q Would you, if a cell phone tower was erected in
20 your backyard and then visually, you had some type of
21 visual, you were in the visual shed, meaningful, would you
22 care one way or another?

23 MR. GROSSMAN: He=s already answered that
24 question.

25 MR. COLES: well, he answered it with the fact

1 that, on cell phone coverage, having, he said that if I
2 didn=t have cell phone coverage and it would give better
3 coverage, he wouldn=t care.

4 MR. DONOHUE: Objection, Mr. Chairman.

5 MR. GROSSMAN: All right. I=ll overrule the
6 objection. Go ahead and answer the question. Just --

7 THE WITNESS: These devices, once they=re up in
8 two to three months, it=s a change. There=s no question.
9 It=s a change in the neighborhood. Folks don=t like change.
10 They just don=t. And I=m old. I don=t like change. But
11 within two to three months, it=s ignored. I=ve got other
12 things to do. I=ve got to get the kids to soccer, I=ve got
13 to get to the dance class, I=ve got to get, got to go to the
14 store and get groceries. I don=t care whether there=s a
15 monopole out in my backyard. Are you kidding me? I=ve got
16 too many other things to think about.

17 MR. COLES: I=m done.

18 MR. GROSSMAN: Okay.

19 MR. COLES: Thank you.

20 MR. GROSSMAN: Does that, I think that finishes
21 the cross-examination questions. Is there any redirect?

22 REDIRECT EXAMINATION

23 BY MR. DONOHUE:

24 Q Mr. Thorne, very, very briefly, Clearview Estates,
25 the study that you did at the Howard County property was, I

1 believe you testified it was a dairy farm that was converted
2 to residential, correct?

3 A In 1992, AT&T leased the, a portion, a very small
4 portion of pastureland to, the farmer leased the compound
5 and the 165-foot monopole to AT&T and it sat almost at the
6 top of the pastureland. And then in 1994, the farmer sold
7 the land to a builder/developer who put 57 homes on 112, 115
8 acres and completely surrounded the monopole.

9 Q So --

10 A So it was inside the residential neighborhood.

11 Q It=s late in the day, but each of the homes then
12 was built and presumably sold after the monopole was
13 installed, correct?

14 A Right. The monopole was erected in 1992. The
15 homes were constructed and sold in 1994 to 1996.

16 Q Did the results of your study indicate any
17 meaningful difference in sales price from the homes sold
18 subsequent to the monopole installation?

19 A No. The price --

20 MR. SAPHIER: Objection. He can=t know that.

21 MR. GROSSMAN: What was the question again, sir?

22 MR. DONOHUE: I asked him whether his, the results
23 of his study indicate any meaningful change in the sales
24 price of the homes sold subsequent to the installation of
25 the pole.

1 MR. GROSSMAN: And why do you say he can=t --

2 MR. SAPHIER: Because the homes were built after
3 the monopole went in so he has no idea what they would have
4 sold for before the monopole was there.

5 MR. GROSSMAN: All right. Well, that=s an
6 interesting distinction and he may be correct about that.
7 What about that, Mr. Thorne? Would that, can you answer
8 that question based on that observation?

9 THE WITNESS: Well, I can. Not because I can run
10 the comparative analysis. I know how to do it. The issue
11 is because of the business cycles, that=s why we looked at
12 this one methodology before and after, the homes came up in
13 1994 to '96. We were coming out of the first recession in
14 1990, then we hit another recession in 2006. So, and I've
15 had this claim. Yes, Mr. Thorne. But all of the homes, all
16 of the homes have been suffered by a lack of comparable
17 increase in prices. I'm probably giving ammunition but I'm
18 here as, just a regular person.

19 MR. GROSSMAN: I don't understand how that exactly
20 answers that question anyway.

21 MR. DONOHUE: Maybe I can rephrase it. Maybe we
22 can go home.

23 BY MR. DONOHUE:

24 Q There are some homes that can see the pole, from
25 Clearview Estates, from their homes and their properties in

1 Clearview Estates, some homes that can't see the pole, is
2 that true?

3 A No. Every single home of 57 homes see this
4 monopole. Now, at the southwest corner, because of
5 topography, some of those home buyers cannot see the
6 monopole except on the second level of their homes because
7 they're elevated up and they can see a portion of the
8 monopole. We had to go to an adjacent subdivision to get
9 comparable sales of homes built about the same time because
10 every single one of those homes see that monopole.

11 Q Do the homes in the second subdivision reflect a
12 change in value or price paid?

13 A No difference.

14 Q No difference.

15 MR. GROSSMAN: And they could not see the pole?

16 THE WITNESS: They could not see the pole. Too
17 many trees and too much topography.

18 MR. DONOHUE: I'm done.

19 MR. GROSSMAN: Any recross?

20 MR. SAPHIER: I just did I believe.

21 MR. GROSSMAN: Well, it wasn't in the record
22 because it wasn't picked up so go ahead.

23 MR. SAPHIER: Okay. Let me put it on the record
24 then.

25 RECROSS-EXAMINATION BY MR. SAPHIER

1 BY MR. SAPHIER:

2 Q You said when the --

3 MR. SAPHIER: Stewart Saphier.

4 BY MR. SAPHIER:

5 Q You said for the second subdivision, there was no
6 difference in prices but they could not see the pole before
7 it was built because it wasn't there and they could not see
8 the pole after it was built, correct?

9 A In the adjacent subdivision, that's correct.

10 Q Right. So the adjacent subdivision would not have
11 any decrease in prices because of the pole because they
12 couldn't see it, correct?

13 A That's correct.

14 MR. GROSSMAN: All right. Now, let's talk about
15 what we're going to do from here on. By February 3, there
16 are a number of things that need to be filed by the
17 petitioner. By February 3, which is two weeks from today if
18 I counted correctly, we want all the submissions that are
19 required of the petitioner, which would be proper
20 propagation maps at the different heights, hopefully, the
21 same color coding is as now used, and then -- the only
22 different heights I'm really interested in at this point are
23 the 95 and 115 I think.

24 MR. DONOHUE: Yes, sir.

25 MR. GROSSMAN: The, the map which shows the

1 distance to the locations photographed in the balloon
2 studies. Legal memo regarding the easement which addresses
3 number one, the question of whether or not the second part
4 of the easement agreement, the one that was executed by Mr.
5 Coles, whether or not that is binding given that there was
6 no consideration, whether you can create an easement like
7 that without consideration. And then regardless of whether
8 or not that second one, the one that was signed by Mr.
9 Coles, regardless of that, whether or not the initial
10 easement covers this use. And then a copy of the water
11 quality plan that was approved by the Planning Board. Were
12 there any other things, Mr. Donohue, that were owed to me
13 from you? Mr. Gibson, yes.

14 MR. GIBSON: That easement, he's the second buyer.
15 When he signed that, he didn't sign that for me. That was
16 him. He bought the house from somebody else. The house was
17 sold to him by another.

18 MR. GROSSMAN: Well, we're not taking testimony
19 now. This is not, this is just a question of the legal
20 issues.

21 MR. DONOHUE: We'll talk.

22 MR. GIBSON: But that was what that was, yeah.

23 MR. DONOHUE: We'll talk.

24 MR. GIBSON: You didn't sign --

25 MR. GROSSMAN: Mr. Gibson, that's --

1 MR. GIBSON: You didn't sign that from me.

2 MR. GROSSMAN: Mr. Gibson. No talking now.

3 MR. DONOHUE: I'm a little unclear what you want
4 us to do on these articles, the studies.

5 MR. GROSSMAN: Oh, yes. The articles.

6 MR. DONOHUE: Yes. I know you wanted us to share
7 them and then you're going to -- I don't know what we're
8 doing from there.

9 MR. GROSSMAN: I'm trying to be fair to both sides
10 on this, on the articles, although as I say, I don't
11 necessarily think they have that much impact on what I have
12 to decide. Whether or not in general, cell towers can
13 affect price or not is not so much, you know, even if I
14 concluded that they can affect sale prices, the question,
15 housing prices, the question is whether or not this
16 particular cell tower has adverse consequences that are not
17 inherent in cell towers. So, you know, but it seems to be a
18 desire of both sides here to put these articles in. Mr.
19 Thorne began to attempt to do it, Mr. Reid attempted and Ms.
20 Stine indicates she has articles that she wants to put in so
21 I didn't want to limit it. If I'm going to, you know, allow
22 it from some, I'd allow it from all.

23 MR. DONOHUE: We can remove our request to submit.
24 I think the record is voluminous at this point. If you do
25 it, my suggestion would be we share the material and then

1 give you a brief on same so we can say look, the following
2 appear to be, have bearing on what we're talking about, the
3 others don't.

4 MR. GROSSMAN: All right. Well, why don't we say
5 that once again, by that February 3 date, you'll share with
6 the opposition these articles that Mr. Thorne had. And now
7 for the -- was there anything else that I asked you to share
8 in addition to what I've listed already?

9 MR. DONOHUE: No. I don't think so.

10 MR. GROSSMAN: All right. And don't forget to
11 send copies of the, the new propagation maps as well as the
12 new balloon studies to Technical Staff because they're
13 amendments to the, they serve as amendments to the petition
14 and it's required by statute that they be resubmitted to
15 Technical Staff. And I would do that sooner rather than
16 later because they're very busy having just come off of
17 furlough, so if you want to get their response back before
18 the next hearing date.

19 Then I would ask that the, if the community
20 witnesses wish to introduce anything regarding articles that
21 they also exchange it by this date, February 3, with Mr.
22 Donohue so that nobody, there are no surprises and then go
23 on from there.

24 MR. LEEGER: So it's kind of a discovery period
25 exists still is what you're saying.

1 MR. GROSSMAN: I don't know if you'd call it a
2 discovery period but I mean, there have been articles
3 mentioned that they want, that people want to introduce and
4 I think it's better if we don't have surprises here, at
5 least on those articles. Also, Mr. Coles or anybody else
6 who wishes to submit a legal memo regarding the easement,
7 also to do that by February 3. And you heard my outline the
8 questions I was posing to Mr. Donohue and the same would
9 apply to you. And something, if the community wishes a
10 particular color on this monopole if it's approved, you
11 ought to submit something to me in that regard as well.

12 MR. LEEGER: So any recommendations?

13 MR. GROSSMAN: Yes. I mean, we have the time now,
14 it's two weeks, and then I'm going to give everybody two
15 weeks to respond to whatever is submitted, and that would be
16 by February 17, 2012. And then we come back here to resume
17 the hearing at 9:30 a.m. on February 24, that's a Friday,
18 and then we hear from all the community witnesses and any
19 rebuttal witnesses to be called by Mr. Donohue. Yes, Mr.
20 Hudson.

21 MR. HUDSON: Sir, in our testimony, if we have
22 attachments or enclosures, is that to meet your deadline
23 with regard to providing those to the groups? For example,
24 if you downloaded something off the web or the Internet that
25 in fact is, let's say T-Mobile's material --

1 MR. GROSSMAN: Yes.

2 MR. HUDSON: Would you want to have something like
3 that provided by your I think 24 February deadline?

4 MR. GROSSMAN: Yes. I certainly would prefer it.
5 I have to say that technically speaking, a member of the
6 community can come in and without filing anything in
7 advance, if you're not representing an organization, without
8 filing anything in advance, you're entitled to testify under
9 the Zoning Ordinance. But I think that given that we've had
10 one session here, I think that we want to have fairness in
11 the ability for people to respond, I think it makes sense to
12 share this, if you have documentation that you plan to
13 introduce, it would certainly be better if it's exchanged
14 with the other side in advance. I mean, as I say, I'm not
15 going to prevent you from testifying and saying whatever you
16 want to say that's not relevant and not cumulative on
17 February 24th.

18 But so those are the dates. February 3, 2012 for
19 the exchange of information and the filing by the petitioner
20 of the things I mentioned, February 17, 2012 for responses
21 and then February 24, 2012 at 9:30 a.m. to resume the
22 hearing. There will be no further notice issued by me
23 because it's being announced at this public hearing. Mr.
24 Coles, did you have a question?

25 MR. COLES: Yeah. I'm going to be on travel until

1 February 1st so this legal opinion for my --

2 MR. GROSSMAN: Okay.

3 MR. COLES: -- for the easement will be a little
4 bit tough. I don't mind if--

5 MR. GROSSMAN: Okay. How about if we give you
6 until February 10 for that? Is that enough time then?

7 MR. COLES: Sure. Yeah. That's plenty of time.

8 MR. GROSSMAN: Okay. So Mr. Coles response on
9 the --

10 (Discussion off the record.)

11 MR. GROSSMAN: Mr. Coles response re: easement.
12 All right. And also, Dr. Saphier, you indicated that, and I
13 guess Ms. Stine, you wanted the opportunity to go out and
14 check the accuracy of the directions they were pointed to.

15 MS. STINE: I will do that. Similar to what I did
16 before.

17 MR. GROSSMAN: So why I would ask that you submit
18 any conclusions or paperwork from that --

19 MS. STINE: Before February --

20 MR. GROSSMAN: -- observation system by
21 February 3.

22 MS. STINE: Yes.

23 MR. GROSSMAN: Okay. And that way we'll all know
24 where we stand. Send a copy to Mr. Donohue and file a copy
25 with my office, okay?

1 MS. STINE: Okay.

2 MR. GROSSMAN: And --

3 MS. STINE: So anything I file with your office I
4 should also copy Mr. Donohue at that point?

5 MR. GROSSMAN: Yes.

6 MS. STINE: Okay.

7 MR. GROSSMAN: And I would love it if you could,
8 I'm not requiring it but I would love if you'd give me
9 electronic copies, PDFs for diagrams, photos, et cetera.

10 MS. STINE: You've already asked for --

11 MR. GROSSMAN: Right.

12 MS. STINE: -- everything, you know. I'll provide
13 you the previous photos and so forth in electronic copy.
14 I'll do that.

15 MR. GROSSMAN: It makes it easier for me because
16 I'm not the greatest typist in the world. All right.
17 Anything else that we need to cover? All right. Let me
18 take a quick look here. All right. So how many witnesses
19 do we have now that are still wanting to testify? I guess
20 we have one, two, three, four, five, six, seven, eight,
21 nine. Oh, we kept it under 10. That's progress.

22 UNIDENTIFIED SPEAKER: Some people left.

23 MR. LEEGER: Yeah. John wants to testify.

24 MR. GROSSMAN: Oh, okay. Well, they can come.

25 They still have the opportunity to come back. All right.

1 Okay. I thank you all very much. I thank you very much for
2 taking your time to come down here and being such effective
3 participants in the process, and we will hear from you and
4 see you on the 24th.

5 (Whereupon, at 5:58 p.m., the hearing was
6 concluded.)

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23 % Digitally signed by Josephine Hayes

24 ELECTRONIC CERTIFICATE

25

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4 County in the matter of:

5
6 Petition of Ralph and Margaret Gibson

7 and T-Mobile Northeast, LLC

8 Case No. S-2816

9 OZAH No. 11-38
10

11 *Josephine Hayes*

12
13 By: _____

14 Josephine Hayes, Transcriber
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